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Tuesday, October 8, 2002



THE HONOURABLE DAN HAYS
SPEAKER

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THE SENATE

Tuesday, October 8, 2002

[Translation]

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

THE LATE HONOURABLE LOUIS DE GONZAGUE GIGUÈRE

TRIBUTES

Hon. Lise Bacon: Honourable senators, I rise today to pay tribute to Senator Louis de Gonzague Giguère, who passed away this past June at the age of 90.

Born in Hébertville, Senator Giguère sat for nearly 18 years in the Senate. In 1968, he was the first Senate appointment by then Prime Minister Pierre Elliott Trudeau. The Honourable Senator Giguère studied at the Chicoutimi and Sherbrooke seminaries and then at Laval University. During his career, he gained a reputation as an excellent administrator in public affairs and politics. He worked for the Quebec Ministry of Labour and was Secretary of the Provincial Royal Commission on the Financial Administration of Quebec's Hospitals.

One of Senator Giguère's particular accomplishments is that he was the Founding Secretary of the Institut des Affaires publiques in 1954. During the 1960s, he was a board member of what was then known as the Central Mortgage and Housing Corporation and, later, he sat on its executive committee.

In addition, he was very actively involved in politics. Not only did he work for the establishment of the Liberal Federation of Canada in Quebec, he was also Chief Liberal Party Organizer for Quebec in the 1963, 1965 and 1968 elections.

In the Senate, Senator Giguère showed particular interest in committee work, particularly when scientific research policy was involved. He served the people of Quebec and of Canada with great dedication, conviction and distinction. Our sincere condolences go out to all of the members of his family.

Hon. Jean-Claude Rivest: Honourable senators, I would like to join with those who have spoken in this Chamber in expressing their most sincere condolences to Senator Giguère's family.

Senator Bacon just gave us an outline of Senator Giguère's career. As we can see, he was always very involved in his community, whether in the business world, to which he devoted the greater part of his energy, or in the areas of health, education and politics.

He was the founder of the Institut des affaires publiques, a very active forum in Quebec during the 1950s, 1960s and 1970s. This group included academics, union leaders, business people and politicians who reflected on the modernization of Quebec society and on the evolution and place of Quebec within Canada.

Senator Giguère was a close associate of the Liberal Party of Canada under Mr. Pearson. He was undoubtedly an extremely influential Liberal Party organizer when the so-called three doves, namely Mr. Trudeau, Mr. Pelletier and Mr. Marchand, who would leave their mark on Canadian and Quebec political history, arrived on the political scene.

In a democracy, we tend to focus more on those who get votes or who hold public office, but people like Senator Giguère and thousands of other Canadians involved in a minor or more significant way in the daily operations of parties also contribute to the successes of governments.

Senator Giguère was a very active member of the Liberal Party of Canada. He did not seek the limelight, but he was effective and, for this reason, the Quebec and Canadian political communities are indebted to him for his commitment and for his conception of political action for activists within a party. This is a particularly noble commitment, because it is based on a desire to serve the public.

It is for this reason that it is important that this chamber remember a man of commitment and action, Senator Giguère.

THE LATE HONOURABLE JEAN-PIERRE CÔTÉ, P.C., O.C.

TRIBUTES

Hon. Pierre De Bané: Honourable senators, today, I would like to pay tribute to the Honourable Senator Jean-Pierre Côté, who passed away on July 10, at the age of 76.

Senator Jean-Pierre Côté, who was a health care professional, was born in Montreal and was elected to Parliament in 1963, 1965 and 1968.

• (1410)

Sworn in as a member of the Privy Council in December 1965, he was the Postmaster General until 1968 in the government of the Right Honourable Lester B. Pearson. During the term of the Right Honourable Pierre Elliott Trudeau, he was appointed Minister of National Revenue, but unfortunately illness forced him to reduce his activities.

In 1970, he became a minister without portfolio. In 1971, when he regained his health, he resumed as Postmaster General for a one-year period only.

On September 1, 1972, the Honourable Jean-Pierre Côté was appointed to the Senate of Canada. In April 1978, he resigned from the Senate. He was appointed Lieutenant Governor of Quebec, a position he held until March 1984.

Throughout his distinguished career as Member of Parliament, minister and representative of Her Majesty in Quebec, the Honourable Senator Côté served the people of Quebec and Canada with spirit, conviction and dignity.

I shall remember Senator Côté as a man who was fundamentally good, fundamentally generous, a man with no enemies who always tried to understand the wishes of the people and reflect these wishes with his utmost sincerity. On behalf of all of the Senate, I offer our most sincere condolences to the members of his family.

Hon. Gérard-A. Beaudoin: Honourable senators, the Honourable Jean-Pierre Côté passed away July 10, 2002. Born in Montreal on January 9, 1926, he studied at the École technique de denturologie in Montreal. He was awarded the gold medal for merit in dental technology in 1951. He married Germaine Tremblay in 1948; they had eight children together. First elected to the House of Commons in 1963, then re-elected in 1965 and 1968, he became Postmaster General on December 18, 1965. He was appointed to the Senate on September 1, 1972. He was Lieutenant Governor of Quebec from April 27, 1978 to March 27, 1984. The Honourable Jean-Pierre Côté was appointed an Officer of the Order of Canada in 1992.

The Honourable Lise Thibault, Lieutenant Governor of Quebec, paid tribute to him on July 11 by thanking him “for what he accomplished during his term, and also for the services he provided Canadians while carrying out his ministerial responsibilities.”

The Honourable Jean-Pierre Côté devoted a part of his life to serving his fellow Canadians, as a member of Parliament, a minister, senator, lieutenant governor and volunteer. Public life is not always easy, and is often thankless. Despite this, Jean-Pierre Côté always gave his best. He will be greatly missed. I offer my deepest sympathies to his wife, his children and to all of his family.

[English]

SENATORS' STATEMENTS

QUESTION OF PRIVILEGE

NOTICE

Hon. Anne C. Cools: Honourable senators, pursuant to rule 43 of the *Rules of the Senate*, I gave notice earlier this day that I intend to raise, later today, a question of privilege.

Honourable senators, I now give oral notice that it is my intention to do as I indicated in my notice.

Honourable senators, I shall be raising a question of privilege in respect of certain public statements made about the Sovereign of Canada, Her Majesty Queen Elizabeth II, the Queen and Head of State of Canada, by the Honourable John Manley, the Deputy Prime Minister, which statements advocate the overthrow of the monarchy in Canada, the ousting of the Queen herself from the

Constitution of Canada, and the substitution of an alternative queen, such as popular singer Céline Dion, and which same statements have been well publicized and well reported in the print and broadcast media throughout Canada.

Honourable senators, in addition to that, these statements were made literally hours after the arrival of Her Majesty the Queen in Canada in order to celebrate the fiftieth anniversary of her accession to the Throne, known as the Golden Jubilee.

THE HONOURABLE DAVID P. SMITH, P.C.

WELCOME TO THE SENATE

Hon. Jeremiah S. Grafstein: Honourable senators, I beg your indulgence once more to conclude my welcome to our newest colleague, Senator David Paul Smith. Let me pick up where I left off the other day.

While continuing as Deputy Mayor of Toronto, Senator Smith continued his practice of law. While the practice and business were his preoccupations, federal politics was and remains his passionate obsession.

David decided to run for Parliament, and run he did, successfully. As a member of the House of Commons, he chaired a special committee reporting on disabilities, and then in turn led the successful lobbying to include disability rights in the Charter.

He joined the cabinet as Secretary of State for Small Businesses and Tourism, where he served with imagination and energy, two of David's natural gifts.

I recall — and Honourable Senator Lowell Murray may recall — that during the Charter and amending-formula debates there was great difficulty as a result of the opposition's very acute and intelligent lobbying in the mother of all Parliaments, the British Parliament. Provincial lobbyists as well as opposition members did a good job of seeking to convince some members of the House of Lords and the House on the other side that there should be major concerns with respect to the amending formula and the Charter. Mr. Trudeau sent David as a government troubleshooter to persuade reluctant British parliamentarians to accept the amending formula in the 1982 Constitution to overcome these well-organized and very acute objections. His persuasive powers were and are legendary. For these and other contributions, he proudly received a rare Queen's Counsel appointment from the federal government.

When he retired from Parliament in Ottawa, he was never far from politics in Ontario, involved in every national campaign at the most senior levels since the 1960s. He became campaign chairman in Ontario and the national campaign chairman under Mr. Chrétien in the last election. Meanwhile, he rose to the pinnacle of the legal profession as managing partner of Fraser Milner Casgrain, and helped build his firm into a national presence.

[Senator De Bané]

He makes his home in the heart of Toronto — he is a neighbour of mine — and summers in Cobourg. He led the Liberal Party to almost a full house in Ontario in the last three federal elections, a feat never before matched in Canadian political history.

He is a world traveller — there is no corner of the globe unfamiliar to his curious mind and capacious memory. His keen sense of humour will be a pleasant distraction from his more sober duties here in the Senate.

Now our friend David starts a third career in politics as a senator for Ontario, from Cobourg, his country home. While I can say without fear of exaggeration that David is prepared for the Senate, I wonder if the Senate is prepared for this burly life force called David.

An Hon. Senator: Three minutes!

Senator Grafstein: Rarely has an individual been so fully armed and loaded and ready to take on the exacting and self-effacing tasks confronting a senator.

While we survey the current political landscape, the old road maps in Canadian politics are of little value and offer no hints to the future. Rest assured, David will be among the skilful guides around the difficult political shoals, waterfalls and cascades awaiting all of us on this side of the aisle and the other in the current Parliament.

With your indulgence, honourable senators, may I have another moment?

An Hon. Senator: No.

The Hon. the Speaker: Honourable Senator Grafstein, I regret to advise you that your three minutes have expired.

THE HONOURABLE WILBERT J. KEON, O.C., O.ONT.

CONGRATULATIONS ON APPOINTMENT TO PRESIDENCY OF INTERNATIONAL SURGICAL GROUP

Hon. Catherine S. Callbeck: Honourable senators, I rise today to draw your attention to the accomplishments of one of our colleagues here in the chamber.

I am sure you are aware of the achievements of Senator Keon. He was the first Canadian surgeon to implant a total artificial heart as a bridge to transplant. He has published extensively in his field and has received many honours and awards, including the Order of Ontario and the Order of Canada.

Recently, our colleague has received another distinction. He has been appointed as President of the International Surgical Group. This group is an international, not-for-profit organization that was founded in the early 1960s. It is composed of world-renowned leading surgical specialists. Active membership in this group is limited to 60 members, and it is quite an honour to have a fellow Canadian appointed as president.

In his new capacity, Senator Keon will be hosting the 2003 International Surgical Group conference here in Ottawa. This is the first time that the group's annual meeting will be held in the capital. It will provide the opportunity for the members to share the latest research, innovations, surgical interventions and procedures with colleagues within all disciplines.

Honourable senators, I ask you to join me in congratulating our accomplished colleague.

Hon. Senators: Hear, hear!

• (1420)

[*Translation*]

THE HONOURABLE YVES MORIN, O.C., O.Q.

CONGRATULATIONS ON RECOGNITION BY THE CANADIAN FEDERATION OF BIOLOGICAL SOCIETIES FOR EXCEPTIONAL CONTRIBUTION

Hon. Raymond C. Setlakwe: Honourable senators, it is my pleasure to acknowledge a well-deserved honour bestowed upon our distinguished colleague, Dr. Yves Morin, by the Canadian Federation of Biological Societies.

[*English*]

The Canadian Federation of Biological Societies has honoured our distinguished colleague, in recognition of his outstanding contribution to the promotion of biomedical science research and education in Canada.

It is worth noting that cabinet ministers have previously received this honour, but this is the first time that a senator has been the beneficiary of this award.

[*Translation*]

Such recognition does not come as a surprise to anyone, since Senator Morin has long been recognized by his peers as the Dean of the Faculty of Medicine at Laval University and Director of the Institut de cardiologie de Québec. He has also been very active, since his appointment to the Senate, on our Standing Senate Committee on Social Affairs, Science and Technology. Congratulations, dear colleague.

[*English*]

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO CONTINUE STUDY OF STATE OF HEALTH CARE SYSTEM—SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, before proceeding with the Daily Routine of Business, I will make a ruling requested of me.

On Thursday, October 3, during the Daily Routine of Business, Senator Morin gave notice of a motion on behalf of Senator Kirby. The purpose of the notice is to authorize the Standing Senate Committee on Social Affairs, Science and Technology to examine several aspects relating to Canada's health care system. The motion would also permit the committee to make use of evidence collected by the committee during the Second Session of the Thirty-sixth Parliament and the First Session of this Parliament with a view to submitting a final report on this study no later than October 31, 2002. Once the notice of motion was given, I reminded the Senate that it would not be possible to deal with this motion until the standing committees are underway.

[Translation]

Just before Orders of the Day, I recognized Senator Kinsella on a point of order relating to this issue. It was his contention that the notice of motion is out of order because the committee does not yet exist. In his view, the Senate cannot authorize a non-existing entity to do something or refrain from doing something.

[English]

By way of rebuttal, Senator Carstairs noted that the object of the notice was to alert the Senate of possible future activity of the committee. Moreover, the senator complained that there are precedents of the Senate adopting motions referring bills to committees even before the committees were formed. In this case, however, the senator indicated that it would seem to be more appropriate not to move until the Standing Senate Committee on Social Affairs, Science and Technology is formed.

[Translation]

In the intervening time, I have had an opportunity to look into this question more closely. Let me begin by noting that I neglected to mention last Thursday that, under rule 23(1), the point of order is somewhat premature. The rule explains that a point of order in relation to any notice given during the daily Routine of Business can only be raised at the time the Order is first called for consideration by the Senate.

[English]

Be that as it may, I have been able to confirm that there have been two recent precedents when the Senate agreed to refer a bill to a standing committee before the membership of the committee was approved by the Senate. The first instance occurred on November 3, 1999, when Bill S-6, amending the Criminal Code, was referred to the Standing Senate Committee on Legal and Constitutional Affairs. The second instance happened January 31, 2001, when a different Bill S-6, dealing with wrongdoing in the public service, was referred to the National Finance Committee. In the first instance, the motion was amended with leave of the Senate to qualify the reference by inserting the phrase "when and if the committee is formed." In the second case, the motion proposed by Senator Kinsella was moved with this qualification included.

Despite these two precedents, it seems to me that the use of the phrase "when and if" is redundant, particularly when applied to standing committees. As the term implies, standing committees are permanent committees of the Senate recognized as such in the *Rules of the Senate*. These permanent committees are reconstituted early in every session in order to carry out the tasks assigned to them.

[The Hon. the Speaker]

Applying the reasoning of the precedents to the present case, there are two options available. Either the Senate can agree, if leave is granted, to amend this debatable motion by adding the phrase "when and if the committee is formed," or the Senate can accept the proposition of the government leader that the motion not be moved until such time as the Senate agrees to a report of the Committee of Selection recommending the membership of the Standing Senate Committee on Social Affairs, Science and Technology, in which case no leave is required. Any decision on this need be made only when the order is actually called for debate. It is my ruling, therefore, that the notice of motion is in order.

ROUTINE PROCEEDINGS

COMMITTEE OF SELECTION

FIRST REPORT OF COMMITTEE PRESENTED AND ADOPTED

Hon. Bill Rompkey, Chair of the Committee of Selection, presented the following report:

Tuesday, October 8, 2002

The Committee of Selection has the honour to present its

FIRST REPORT

Pursuant to Rule 85(1)(a) and 85(2) of the *Rules of the Senate*, your Committee wishes to inform the Senate that it nominates the Honourable Senator Pépin as Speaker *pro tempore*.

Respectfully submitted,

WILLIAM ROMPKEY
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Rompkey: With leave, later this day.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, may I suggest to my honourable friend that leave be requested to deal with the matter forthwith?

The Hon. the Speaker: Is that agreed, honourable senators?

Hon. Senators: Agreed.

Senator Rompkey: Honourable senators, I move the adoption of the report.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

SECOND REPORT OF COMMITTEE PRESENTED

Hon. Bill Rompkey, Chair of the Committee of Selection, presented the following report:

Tuesday, October 8, 2002

The Committee of Selection has the honour to present its

SECOND REPORT

Pursuant to Rule 85(1)(b) of the *Rules of the Senate*, your Committee submits herewith the list of Senators nominated by it to serve on the following standing committee:

STANDING COMMITTEE ON SOCIAL AFFAIRS,
SCIENCE AND TECHNOLOGY

The Honourable Senators Callbeck, *Carstairs (or Robichaud), Cook, Cordy, Di Nino, Fairbairn, Keon, Kirby, LeBreton, *Lynch-Staunton (or Kinsella), Morin, Pépin, Robertson and Roche.

* *Ex Officio Members*

Respectfully submitted,

WILLIAM ROMPKEY
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Senator Rompkey: Honourable senators, if there is no agreement to proceed forthwith, I wonder if there might be agreement to proceed later this day.

The Hon. the Speaker: Is leave granted to proceed later this day?

Hon. Senators: Agreed.

On motion of Senator Rompkey, report placed on the Orders of the Day for consideration later this day.

• (1430)

ANTI-TERRORISM BILL

REPORT OF SPECIAL COMMITTEE PURSUANT
TO RULE 104 TABLED

Hon. Joyce Fairbairn: Honourable senators, pursuant to rule 104 of the *Rules of the Senate*, I have the honour to table the first report of the Special Committee on Bill C-36, to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other acts, and to enact measures respecting the registration of charities, in order to combat terrorism, which deals with the expenses incurred by the committee during the First Session of the Thirty-seventh Parliament.

(For text of report, see today's Journals of the Senate)

INTERNAL ECONOMY, BUDGETS
AND ADMINISTRATION

FIRST REPORT OF COMMITTEE PRESENTED

Hon. Richard H. Kroft, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, October 8, 2002

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

FIRST REPORT

Your Committee recommends the adoption of Supplementary Estimates of \$969,000 for the fiscal year 2002-2003.

These Supplementary Estimates are needed to meet the following requirements:

- 1) to normalize the resources to meet the current deployment within the Protective Service;
- 2) for the replacement of printing equipment;
- 3) for the development of an integrated approach to disability management;
- 4) to produce an American Sign Language (ASL) and "la langue des signes du Québec" (LSQ) version of the Senate Committee Report "Quality of End-of-Life Care: the Right of Every Canadian"; and
- 5) to provide for full funding for Parliamentary Exchanges and Associations.

Respectfully submitted,

RICHARD H. KROFT
Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kroft, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

BUSINESS OF THE SENATE

NOTICE OF MOTION TO AUTHORIZE COMMITTEES TO
MEET DURING ADJOURNMENTS OF THE SENATE

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I give notice that tomorrow, Wednesday, October 9, 2002, I will move:

That, for the duration of the present session, any select committee may meet during adjournments of the Senate.

SPEECH FROM THE THRONE

ADDRESS IN REPLY—TERMINATION OF DEBATE ON EIGHTH SITTING DAY—NOTICE OF MOTION

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, pursuant to rule 58(1)(h), I give notice that at the next sitting of the Senate I will move:

That the proceedings on the Order of the Day for resuming the debate on the motion for the Address in reply to Her Excellency the Governor General's Speech from the Throne addressed to both Houses of Parliament be concluded on the eighth sitting day on which the order is debated.

[English]

HERITAGE LIGHTHOUSE PROTECTION BILL

FIRST READING

Hon. J. Michael Forrestall presented Bill S-7, to protect heritage lighthouses.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Forrestall, bill placed on the Orders of the Day for second reading two weeks hence.

THE SENATE

NOTICE OF MOTION REQUESTING GOVERNMENT RESPONSE TO NATIONAL SECURITY AND DEFENCE COMMITTEE REPORT

Hon. Jane Cordy: Honourable senators, I give notice that on Thursday next, October 10, 2002, I will move:

That within 150 days, the Leader of the Government shall provide the Senate with a comprehensive government response to the report of the Standing Senate Committee on National Security and Defence, entitled *Defence of North America: A Canadian Responsibility*, tabled on August 30, 2002.

INDEPENDENCE OF SPEAKER IN WESTMINSTER MODEL OF PARLIAMENT

NOTICE OF INQUIRY

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I give notice that on Thursday next, October 10, 2002, I will call the attention of the Senate to the independence of the Speaker in the Westminster model of Parliament.

Some Hon. Senators: Hear, hear!

ACCESS TO CENSUS INFORMATION

PRESENTATION OF PETITIONS

Hon. Lorna Milne: Honourable senators, once again, I have the honour to present petitions. This time these petitions bear the signatures of 940 Canadians in the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick and Nova Scotia, who are researching their ancestry and who are petitioning the following:

Your petitioners call upon Parliament to take whatever steps necessary to retroactively amend the confidentiality privacy clauses of statistics acts since 1906, to allow release to the public, after a reasonable period of time, of post-1901 census reports starting with the 1906 census.

I have now presented petitions with 19,169 signatures to the First Session of the 37th Parliament, petitions with over 6,000 signatures to the 36th Parliament, and petitions with 940 signatures to the Second Session of the 37th Parliament. All of these petitions call for immediate action on this very important matter of Canadian history.

QUESTION PERIOD

FOREIGN AFFAIRS

IRAQ—ATTEMPT TO BOMB MEETING INVOLVING PRESIDENT SADDAM HUSSEIN

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate. An article in the Italian press from ANSA quotes a report from the Kuwaiti Al-Qabas that an Iraqi MiG-23 pilot has attempted to bomb one of Saddam Hussein's presidential palaces at Al Tharthar where Saddam Hussein was holding a meeting. The Iraqi aircraft was subsequently shot down and the pilot is being interrogated, interestingly enough, in the presence of Saddam Hussein. Is the honourable leader able to confirm whether the government has any information about this event?

Hon. Sharon Carstairs (Leader of the Government): I thank the honourable senator for drawing that report to my attention. This is the first time I have heard of the incident. My staff are listening and they may be able to obtain additional details. With the permission of the Senate, when Question Period is over, I would be pleased to share that information. Otherwise, I shall try to provide additional information as soon as possible.

• (1440)

NATIONAL DEFENCE

REPORT OF CONFERENCE OF DEFENCE ASSOCIATIONS—STATE OF ARMED FORCES

Hon. J. Michael Forrestall: I express my appreciation to the Leader of the Government in the Senate for that response.

I ask that question as a precursor to the deterioration of the international situation between the U.S. and the United Kingdom and Iraq, and to the heating up again of relations between India and Pakistan.

The Conference of Defence Associations has released another highly critical report on the state of the Canadian Armed Forces entitled: "A Nation at Risk." The report states, among other things, that Canada is about to abandon its naval task force capability, that our destroyers are likely to be placed in extended, unmanned readiness, that our operational support ships are unlikely to be replaced, that our Victoria-class submarines require a major upgrade, and that money must come from somewhere to begin a mid-life refit of the Halifax-class. I have not even mentioned the replacement of the Sea Kings.

Will the Leader of the Government in the Senate go to the Minister of Finance and demand emergency funding for the Canadian Armed Forces in the amount of \$1.5 billion?

Hon. Sharon Carstairs (Leader of the Government): The honourable senator well knows the importance of the Conference of Defence Associations. Those who serve, some 600,000 strong, are represented by this association. Obviously, their report will be considered by the government because it is an important one.

The government has acknowledged that the Canadian Forces do face resource challenges. The government has also said, in its Speech from the Throne, that a long-term direction on international and defence policies must take the form of a review. It is my understanding that no decisions will be made prior to the completion of that review.

Hon. Gerry St. Germain: Honourable senators, my question is also to the Leader of the Government in the Senate and relates to the question that Senator Forrestall put forward in regard to this report, which I have read quite thoroughly. I read that the report was prepared by a blue ribbon panel of retired officers. What Canadians should know and what should be on the record is that the report finds that the substantial decline in the Canadian Forces is putting the entire nation at risk in terms of losing its security against domestic and international threats, its economic prosperity and especially its sovereignty.

When we look at reports that are now coming out of the U.S. about U.S.-Canada relations, much of it is predicated on our inability, in the eyes of the Americans, to function as a nation, as we have in the past, due to the decline in our military strength.

Does the honourable senator have a comment in view of the fact that we are looking at a situation that the world has never seen before, the Iraqi situation, as well as other situations? Does she agree that this blue ribbon panel of officers is correct, or does she disagree with their report?

Senator Carstairs: Unlike the honourable senator who has indicated that he has read the report thoroughly from one end to the other, I have not had that opportunity. I have read the news

stories about it. I asked for and received some background on who were the individuals who formed this association. Since 1932, this has been an association of some repute.

The honourable senator also engaged in dialogue relating to statements made by the Americans. I would suggest to the honourable senator that defence policy for Canada will be made in Canada. It will not be made in the United States. Having said that, we have a situation in which, on the one hand, we have great praise coming from the United States for our participation in the war against terrorism. Our troops on the ground in Afghanistan have received nothing but the highest praise from the United States. We also hear that they would like us to have more weapons of a variety of sources. Those decisions will not be made by the United States. Those decisions will be made here in Canada.

Senator St. Germain: I believe Canadians would accept that, but the Liberal government of the day has not made any decisions. They have neglected our military such that morale has deteriorated to the point that the military personnel themselves are speaking out against what is happening in this country. Their equipment is outdated.

Honourable senators, we have talked about this issue before. The Leader of the Government, the minister in this place, has defended the position of the government on helicopters, tanks and various other equipment. Yet, this very government, the cabinet in which the minister sits, went out and bought jets to transport ministers and let the helicopter replacement issue go sideways. How is this justifiable in the eyes of the public and the eyes of the military when this country asks our men and women to put their lives on the line when they go into battle?

The Americans, certainly, will not be anything but praiseworthy of the effort that was made by our soldiers in Afghanistan. What does the honourable leader think they would do? This is a joke.

It is time that the minister speaks to what she is being told in this place and on behalf of the military in a responsible manner so that the military can at least have some hope of improving their plight as they go about their duties in the world.

Senator Carstairs: The honourable senator has managed to put a number of issues in one question. Let us deal with them one at a time.

First, the honourable senator speaks about the morale of the armed services deteriorating when, in reality, recruitment drives have never been so successful as they have been over the past little while. If there is a morale problem, why are young people choosing to join our Armed Forces in significant numbers?

Second, the honourable senator speaks about equipment. He tried to make the comparison between the Challenger jets and the Sea King helicopters. Some \$80 million has been spent on the Sea Kings over the past few years to ensure that they are maintained to capacity in order to serve and continue to perform their functions.

If there is an ongoing policy for purchasing new aircraft, it is slower than any of us in this chamber would like. As I have expressed to the minister, it is slower than I would like to see, if for no other reason than giving Senator Forrestall some good news for a change on this issue.

The Speech from the Throne was very clear: There will be a review. That review will go hand in hand with our foreign policy review. I believe that is the way it should take place. Canadians will be consulted because, if one looks at the surveys, Canadians appear to be very supportive of additional resources going into the military. They are also very supportive of additional monies going into education. They are very supportive of additional monies going into health care as their number one priority. They also tell us that they do not want to go back to deficit spending.

SEQUENCE OF FOREIGN POLICY REVIEW AND DEFENCE POLICY REVIEW

Hon. J. Michael Forrestall: Will the external review take place before we complete the defence review?

Hon. Sharon Carstairs (Leader of the Government): I understand that both reviews will take place at the same time.

TABLING OF REPORTS ON COST ALLOCATIONS FOR EQUIPMENT

Hon. Laurier L. LaPierre: Honourable senators, I heard the word "morality," but I understand it was the word "morale" that was used. I can say, therefore, that morality will not be affected by the lack of equipment, if there is such a lack.

Could the honourable senator table in the Senate all of these reports that have been made by these learned people, who have stated clearly where the money is to come from to increase the budget of the Department of National Defence for our Armed Forces? I am uncertain as to the amount, whether it is \$2 billion to \$8 billion to \$12 billion to \$22 billion.

• (1450)

If it is to come from health care, from the children's agenda, the CBC, culture or through deficit spending, we need to know. These people get up and make statements without any proof of what they are saying, insofar as it relates to the cost of the equipment they want, with the exception of Senator Kenny's brilliant statement. These committees and reports also never state where the money is to come from.

I should like to ask the Leader of the Government in the Senate to ask her many researchers to look into that.

Hon. Sharon Carstairs (Leader of the Government): I wish to assure honourable senators that I do not have many researchers, but the ones I do have work extremely hard.

In terms of the reports that have costed these large sums of money, I have never yet read a report that tells me the source of the money. The reports make demands that such and such an amount of money needs to be spent. Sometimes, very good justification is given for why such an amount of money must be spent.

[Senator Carstairs]

As the honourable senator has so eloquently put it, no information is given as to which programs are to be sacrificed to come up with these large sums of money.

THE ENVIRONMENT

COST TO GOVERNMENT OF CONSULTATIONS ON CLIMATE CHANGE

Hon. Mira Spivak: Honourable senators, my question is for the Leader of the Government in the Senate. A great deal of debate on the Kyoto Protocol has been about consultation with industry and the provinces. Opponents of the protocol are calling for much more consultation. However, the Government of Canada has already spent almost a decade consulting on climate change. The National Climate Change Secretariat and its various issue tables, the National Round Table on the Environment and the Economy, Environment Canada, external consultants and environmental organizations are some of the federally funded bodies that have consulted on this issue, and consulted with industry and the provinces. Certainly, we need a specific plan. We need to have discussion, and perhaps critical evaluation, of that plan. However, it is wise to remember now how much consultation has gone on previously.

My question is as follows: Is the Leader of the Government able to inform us about how much time and money the Government of Canada has spent on climate change consultation since the Rio conference? How many person-years and dollars have been spent trying to achieve a consensus? In other words, I should like the Leader of the Government in the Senate to confirm that a great deal has been spent in consultations and what that means in terms of evidence.

Hon. Sharon Carstairs (Leader of the Government): The honourable senator is quite correct when she indicates that the consultation process has been going on for 10 years. Interestingly enough, one of the participants at almost all of those discussions has been the Province of Alberta, which has chosen to participate as we move towards a plan to meet the demands of climate change.

As to the specific question about how much has been spent on negotiations and how many person-years have been involved, I cannot provide that information at this time, but I shall seek that information and provide it at the earliest opportunity.

INDUSTRY

AUDITOR GENERAL'S REPORT—SMALL BUSINESS FINANCING PROGRAM—COST-RECOVERY RATE ON SMALL BUSINESS LOANS

Hon. Donald H. Oliver: Honourable senators, my question relates to the Auditor General's discussion of the management of the Canada Small Business Financing Program in chapter five of her just-released report. As chapter five is a follow-up to the 1997 report made by the Auditor General on this program, the Auditor General revisits certain issues that she raised in 1997 to see how effective the government has been in addressing her previous concerns. One of these issues is the matter of the cost-recovery

rate on loans made to small business under this program. Specifically, the auditor points out that in its 2000-01 Annual Report the Department of Industry stated that it does not expect to meet its cost-recovery goals for loans guaranteed between April 1, 1995, and March 31, 1999. What this translates into is a loss of \$155.8 million by the end of March 2001 and projected losses of over \$200 million over the life of the loans administered under the Canada Small Business Financing Program and its predecessor, the Small Business Loans Program.

My question to the Leader of the Government in the Senate is this: What measures will her government be taking to address this problem so that poor cost recovery does not become a permanent feature of this program?

Hon. Sharon Carstairs (Leader of the Government): The honourable senator raises the issue from the portion of the Auditor General's report dealing with small business financing. Of course, he does not raise the helpful comments that the Auditor General has made about the enormous progress that has been made in this particular program. She comments on the fact that the legislation has enhanced accountability to Parliament, and the importance of that accountability. She highlighted the program's performance and delivery. She has identified, as the honourable senator clearly states, that there are still issues with respect to cost recovery, and the government has committed in its response to the Auditor General's report that it will move to meet ways in which that can be done more effectively.

Senator Oliver: Honourable senators, it is interesting that the honourable leader chose to highlight some of the aspects of the report that she says are positive. That leads to my supplemental question. The Auditor General's report points out that since 1998 there has been a significant drop in the number of loans made through the Canada Small Business Financing Program. In interviews with financial institutions, the Auditor General ascertained that one of the reasons for the alarming decline in the amount of loans granted is the amount of administrative work in the loans. Beyond monitoring the level of usage, the department did not use its response to the Auditor General — that response is spelled out at the end of chapter five — to provide any details about how it intends to address the problem of the program's administrative burden.

Does the Leader of the Government in the Senate have anything to add to the department's response related to the matter of the administrative burden and the negative impact it is having on small businesses wanting to borrow money?

Senator Carstairs: There is no question that the banking community certainly seems to feel that it has been an administrative burden and that they would like to see that reduced. At this point, I cannot tell the honourable senator what specific things will be done to reduce that administrative burden. The question that also needs to be asked is this: If there have been fewer loans and there has not been a decline in the vibrancy of the small business sector, what was going on in the economy that prompted them not to return to this program but to be able to continue their viability without these loans?

[*Translation*]

FINANCE

EQUALIZATION PROGRAM—RETURN OF EXCESS REVENUE PAYMENTS BY CERTAIN PROVINCES

Hon. Roch Bolduc: Honourable senators, in early September, we received a disconcerting document from the Finance Department. We learned from it that, very early in the year, the Canada Customs and Revenue Agency had announced the discovery of an accounting problem resulting in major overpayments to four of the provinces. It appears that between 1993 and 1996 the federal government had paid out \$838 million too much, and from 1997 to 1999, another \$2.5 billion.

As accounting errors go, this is pretty significant. From 1993 to 1996 the auditor has established that \$838 million was on the loose somewhere. They started over from scratch. However, after 1997, the auditor was able to conclude that \$2 billion of the \$2.5 billion was paid out to Ontario.

If the government recovers these funds, provincial revenue will be reduced and, as a result, equalization payments to the other provinces, including those to Quebec and the Maritime provinces, will be affected.

I am trying to understand the government's logic. It says that, from 1993 to 1996, there were overpayments of \$838 million; but we are not absolutely certain about that figure, so we write it off. However, we are sure about the \$2.5 billion. Yet, this would have an impact on both the payers and the recipients of the equalization payments. The government says it will not cut the share of the recipients, the Province of Quebec included. The situation for Manitoba is the opposite. Ontario would have a lot to pay back. We cannot demand so much, so we will cut it in half. We will take nothing away from the recipients, but we will ask Ontario to pay less than expected, that is \$1.3 billion instead of \$2 billion plus.

• (1500)

I do not know if this is a compromise reached by provincial finance ministers, but it is not covered by the agreement on equalization. There is nothing to that effect in the agreement. The governments are, in my opinion, making an arbitrary administrative rule. It seems to me that this is not what the principle of equalization is all about. By definition, it is about making clear rules that apply to everyone. I would like some clarification on this, because the matter is not simple.

[*English*]

Hon. Sharon Carstairs (Leader of the Government): As the honourable senator knows, I had an interest in this case because the actual loss per capita to Manitoba was the largest of all the provinces.

The facts are as follows: From 1993 to 1999, six provinces received more than \$3.3 billion in tax revenue that they should not have received, which generated \$1 billion in additional payments to the eight provinces that received equalization. The government attempted to come up with a balanced response.

On September 4, the Minister of Finance announced a broad solution. Ontario and Manitoba are the only provinces that will make repayments. The Minister of Finance also announced that the tax and equalization payments would be corrected from the year 2000 onwards. Media said the following:

A relieved Manitoba Finance Minister Greg Selinger said he is satisfied with the solution outlined by Deputy Prime Minister John Manley. "This is consistent with the proposal we put before the federal government at the outset. I would like to commend Finance Minister John Manley for moving on this in a timely fashion."

Clearly, the response that the government came up with met with great favour in my province. My understanding is that while Quebec's minister raised some issues, it is noted that the equalization program's floor position will limit the extent to which Quebec's entitlements could fall in this year. The precise impact of that floor will not be known until later this year.

[Translation]

Senator Bolduc: Honourable senators, in other words, an agreement has been reached. The ministers are happy, so they signed it. It is somewhat like unions and the government: when some minor agreement is negotiated, everyone is happy, the agreement is signed, and then the public pays for it. This is my understanding.

[English]

Senator Carstairs: Honourable senators, it was decided that everyone should share the burden. There is no question that this was a mistake made by the federal government, a mistake about which the Auditor General said were the perfectly right figures to be using. It then became apparent that they were not the right figures to be using.

The government then came up with a solution that is balanced, particularly when one looks at the reaction of the Manitoba government, which was to suffer the most per capita. They came back and said that the federal government had achieved a balanced solution.

[Translation]

FOREIGN AFFAIRS

ISRAEL AND PALESTINE—SITUATION IN GAZA

Hon. Marcel Prud'homme: Honourable senators, what is the position of the Canadian government regarding the massacre — there is no other word for it — that took place in the past few days and hours in Gaza? Has the Government of Canada issued a statement?

[Senator Carstairs]

[English]

Hon. Sharon Carstairs (Leader of the Government): Honourable senators, I do not know whether the government has made a formal statement, but it has clearly indicated on the record its unease about events that have recently taken place.

Senator Prud'homme: We all remember that we voted for a free trade agreement with the State of Israel. As a sign of encouragement toward peace, a decision was taken by the Right Honourable Prime Minister Chrétien and Mr. Rabin. It so happened that by the time we gave this ultimate pleasure to the Israeli authorities, the Israeli Prime Minister had changed. The situation is now getting worse and worse.

Fourteen people were killed in the most recent Israeli incursion into Gaza, which has been condemned by our great friends to the south and by the entire European community. They join the more than 40,000 people who have already been injured, people we never talk about. I am getting sick of it.

I understand that by speaking calmly I have already eliminated myself from the Standing Senate Committee on Foreign Affairs for another year. We are getting sick and tired. You can smile and laugh, especially some of you who I shall, in a debate, refer to by name.

The situation is only getting worse. The ultimate goal of the Israelis is to scare people away, as Mr. Shamir and Mr. Begin, who were ex-terrorists before they became prime ministers, did in the old days. They chased people away and scared them into leaving.

Is there anything else that Canada can do to show how much we care and how much we despise these events?

Senator Carstairs: Honourable senators, the Canadian government has urged Israel to refrain from using force wherever possible, particularly where civilians are at risk.

We continue to encourage both the Israelis and the Palestinians to pursue actions that are consistent with the common goal of two states, Israel and Palestine, living side by side in peace and security.

THE ENVIRONMENT

KYOTO PROTOCOL— ECONOMIC EFFECT ON PROVINCES

Hon. John Buchanan: Honourable senators, I have a question for the Leader of the Government in the Senate about the Kyoto accord. Preliminary federal studies refer to Canada's major energy producing provinces — that is, Alberta, Nova Scotia and Newfoundland.

It is great to be able to stand here and state that Nova Scotia and Newfoundland are among the major energy producing provinces in this country.

Having said that, Ontario has made it clear, through its premier, that they will refuse to cooperate on Kyoto.

Ontario will refuse to co-operate with the federal government on the Kyoto accord if Prime Minister Jean Chrétien refuses to reveal his plan for cutting greenhouse gases under the climate change treaty, Premier Ernie Eaves said Tuesday.

“I’m not signing on to anything that I don’t know the effect of at the end of the day,”...

The Hon. the Speaker: Honourable senators, I rise to remind you, there are only two minutes left in Question Period.

Senator Buchanan: Your Honour, I have not risen to speak in a while. I thought my colleagues would want me to say a few more things.

An Hon. Senator: Your two minutes are up.

Senator Buchanan: We know the position of the Government of Alberta. The Premier of the Government of British Columbia, Premier Campbell, stated:

It is incumbent upon the federal government to explain to every premier across the country what is his plan, how is he going to achieve whatever target it is he wants to achieve and how is he going to do that without costing any part of the economy hundreds of thousands of jobs, or tens of thousands of jobs for that matter.

He appealed to the federal government for an implementation plan.

• (1510)

The position of Nova Scotia is the same. The Premier of Nova Scotia, John Hamm, criticizes the federal government for not having a realistic implementation plan for the Kyoto accord. He said that Canadians have yet to see a realistic, workable plan from Ottawa to implement the accord. He advised Ottawa that ratification of the accord without a workable plan would be akin to someone buying a house without viewing it first.

There are statements from Gordon Balser, the Minister of Energy from Nova Scotia, and the Premier of Newfoundland. These statements advise that all Newfoundlanders and Nova Scotians in the Senate should be very concerned about the Kyoto accord and its economic effect on these small provinces.

Senator St. Germain: Way to go!

Senator Buchanan: Keen on protecting Nova Scotia’s oil and natural gas energy, Energy Minister Gordon Balser called on the federal government Tuesday —

The Hon. the Speaker: Honourable senators, I regret to advise that the 30 minutes for Question Period have expired.

Senator Buchanan: May I continue tomorrow?

[*Translation*]

ORDERS OF THE DAY

TAX CONVENTIONS IMPLEMENTATION BILL, 2002

SECOND READING—DEBATE ADJOURNED

Hon. Raymond C. Setlakwe moved the second reading of Bill S-2, to implement an agreement, conventions and protocols concluded between Canada and Kuwait, Mongolia, the United Arab Emirates, Moldova, Norway, Belgium and Italy for the avoidance of double taxation and the prevention of fiscal evasion and to amend the enacted text of three tax treaties.

He said: Honourable senators, I appreciate the opportunity to speak today at second reading of Bill S-2, the Income Tax Conventions Implementation Act, 2002.

The purpose of this legislation is to enact seven tax treaties that Canada recently signed with other countries. More specifically, our tax treaties with Belgium, Italy and Norway are updated to ensure that our bilateral arrangements are consistent with current Canadian tax treaty policy.

The bill also implements new treaties with Kuwait, Mongolia, Moldova and the United Arab Emirates. They relate to Canada’s continuing efforts to expand its network of tax treaties and are designed to provide taxpayers with more certain and equitable tax results in their cross-border dealings. The aim of Canada’s tax treaties is to protect taxpayers from double taxation and to assist tax authorities in their efforts to prevent fiscal evasion.

Canada and the other member countries of the Organization for Economic Co-operation and Development have long recognized the importance of relieving double taxation and protecting against fiscal evasion, and their collective efforts have resulted in the Model Double Taxation Convention prepared by the OECD. Canada’s tax treaties, while tailored to address our particular needs, are generally patterned on this document and are in accord with international norms.

[*English*]

Before reviewing the bill, I should like to provide some background that will put the legislation in context.

Canada imposes tax on the worldwide income of Canadian residents and on the Canadian-source income of non-residents. These two fundamental features of Canadian income tax have been with us for a very long time. In other words, all income of Canadian residents, whether earned in Canada or abroad, is taxable in Canada. Non-residents, on the other hand, are only subject to Canadian income tax to the extent that they participate in the economic life of Canada or receive income from sources in Canada. In this regard, the Canadian tax system functions in accordance with international norms.

When our income tax system was overhauled in the early 1970s, one of the results was the expansion of Canada's network of tax treaties with other countries. Ongoing efforts have been undertaken to maintain and update this network ever since. Bill S-2 relates to this effort. Our network of tax treaties is one of the most extensive of any country in the world. At present, Canada has tax treaties in force with more than 75 countries. Further, Canada has tax treaties in force with all of its major trading partners, as well as all but two, Greece and Turkey, of the 30 member countries of the OECD.

[*Translation*]

Canada's tax treaties are all developed with two main purposes in mind. First, they are designed to prevent double taxation and provide a level of certainty about the tax rules that apply to international transactions. The potential for double taxation arises when a taxpayer resides in one country and earns income in another. Without a tax treaty, both countries could claim tax on the income. Double taxation treaties therefore ensure that income is not taxed twice.

Our tax treaties accomplish this in three ways. First, they allocate taxing rights between Canada and its treaty partner over different categories of income. Second, they set out rules for resolving dual claims about a taxpayer's residential status and source of income. Third, they allow taxpayers who believe they have been unjustly treated under the terms of a tax treaty to present their case to tax authorities.

[*English*]

The second objective in signing tax treaties is to encourage cooperation between revenue authorities to prevent tax evasion or avoidance. This is achieved in a number of ways, including the following: by allocating profits between parties on an arm's-length basis; by ensuring that domestic law applies in cases involving transfer pricing and other international avoidance practices; by providing for the exchanges of information between respective tax authorities; and in some cases, by the mutual assistance in the collection of taxes.

[*Translation*]

Honourable senators, let me take a moment and explain why relief from double taxation is necessary. Tax treaties impact on the Canadian economy, particularly because they help facilitate international trade and investment by removing tax impediments to cross-border dealings. This is significant because, as honourable senators know, Canada's economy relies significantly on international trade. In fact, Canadian exports account for more than 40 per cent of our annual GDP. What is more, Canada's economic wealth depends on direct foreign investment to Canada as well as inflows of information, capital and technology.

[*English*]

In other words, by eliminating tax impediments and by creating more predictable tax results for traders, investors and other taxpayers with international dealings, our tax treaties promote opportunities at home and international trade and investment abroad.

[Senator Setlakwe]

Since Canada's economy is likely to become more intertwined in the world economy, eliminating tax impediments in crossborder trades will remain important.

I should like to point out there can be economic disadvantages for countries that do not enter into tax agreements with other countries. The absence of such agreements can have harmful effects on the economic relations between countries because it makes double taxation a possible concern to taxpayers. Without a tax treaty in place setting out tax rules, income is at risk of being taxed in both countries. This outcome stands to produce unfair results and can have adverse economic impacts. It is fair to say that tax treaties help to promote certainty and stability, and in so doing they help to produce a better business climate.

[*Translation*]

Honourable senators, I now want to discuss some of the specific measures in the legislation we are debating today. The tax treaties in this bill set out under what circumstances, and to what extent, Canada and its treaty partners may tax the earnings of one another's residents. Some of the more discernible restrictions concern withholding taxes. In Canada, certain income, such as interest, dividends and royalty payments to non-residents anywhere in the world is subject to a withholding tax. This practice is a common feature in international taxation.

• (1520)

Canada's network of tax treaties provides for several withholding tax rate reductions, the overwhelming majority of which operate on a reciprocal basis.

Without a tax treaty or other legislated exemption, Canada generally taxes income paid to non-residents at the rate of 25 per cent of the gross amount of the payment.

The seven treaties contained in this bill reduce the rates of withholding tax that can be levied in Canada and by each of our respective treaty partners.

For example, all of the treaties introduce a maximum rate of withholding tax of 15 per cent on portfolio dividends paid to non-residents. Moreover, in the case of dividends paid by subsidiaries to their parent companies, the maximum rate of withholding tax is reduced to 5 per cent, in all cases.

The maximum rate of withholding tax on interest and royalty payments is generally capped at 10 per cent under each of the seven treaties being implemented.

Having said that, many of the treaties contain an exemption or preferred withholding tax rate for royalties paid in respect of the use, or right to use, certain copyright royalties, computer software, patents and know-how.

As far as periodic pension payments are concerned, the maximum rate of withholding tax that can be levied is set at 15 per cent in all the countries except in the case of Belgium and the United Arab Emirates, where no cap has been established.

[English]

In addition to the provisions limiting the amount of withholding tax that can be levied on payments made to non-residents, the treaties also implement other measures that ensure the tax consequences of certain transactions are in line with Canadian tax policy. While time does not permit me to review all of these measures today, I should like to take a moment to discuss the issues related to Canada's taxpayer migration rules. Let me provide some background.

The concept that Canada should tax individuals on all their capital gains that accrue while they live here has been part of Canada's tax policy since 1972, when capital gains first became taxable under the Income Tax Act. Since then, special rules have applied to people who become or cease to be resident in Canada.

The basic rule on emigration is that individuals leaving Canada are treated as having disposed of all their properties before changing residence with the result that any latent gains or losses are realized. The general effect is, therefore, that an emigrant is taxed on gains that accrued while a resident of Canada, regardless of whether the property to which those gains relate is disposed of before or after the point of emigration.

For many years, there were questions about the exact scope of this deemed disposition on departure from Canada and how it affected our international tax treaties. However, Canada now wishes to retain the exclusive right to tax departing residents on gains that accrued during the period they lived in Canada. All of the seven tax treaties contained in this bill are especially supportive of this approach in that they confer to Canada the exclusive right to tax gains that accrued while the individuals were residents of Canada.

[Translation]

Honourable senators, this bill contains forward-thinking measures that will promote trade and investment and provide taxpayers with more certain and equitable tax results in their cross-border dealings.

All the treaties covered in this bill are part of Canada's larger efforts to build goodwill and create the conditions for growth that will make closer, more dynamic relations with our trading partners possible.

Again, meaningful benefits for taxpayers will result from the passage of this bill. First, taxpayers will benefit from knowing that a treaty rate of tax cannot be increased without substantial advance notice. Second, the mere existence of tax treaties will engender an atmosphere of certainty and stability for investors and traders. Third, by eliminating the need to pay tax on certain business profits and by providing a mechanism to settle problems encountered by taxpayers, both annoyance and complexity in the operation of the tax system itself will be reduced.

Those within the Canadian business community support the revision and expansion of our network of tax treaties. I am confident that they will welcome the opportunity to avail themselves of these seven new treaties.

The business community, particularly investors, will also welcome the limits that these treaties impose on each country's ability to tax certain income and the co-operation that will ensue between Canadian and other tax authorities.

Finally, and not to be forgotten, is the most important benefit to be derived from these treaties, which will be the elimination or alleviation of double taxation that might otherwise arise in international transactions with these countries.

Honourable senators, in light of the positive effects that will result from this bill, I urge you to pass the legislation without delay.

[English]

Hon. A. Raynell Andreychuk: Honourable senators, would the Honourable Senator Setlakwe entertain some questions?

Senator Setlakwe: Yes.

Senator Andreychuk: Honourable senators, I noted with interest the tax advantages both to Canadians and to the second country, but I was rather curious about Bill S-2 bringing together Kuwait, Mongolia, the United Arab Emirates, Moldova, Norway, Belgium and Italy. These countries have commonality within the world community, but they certainly have many marked differences. Why did the government or the department choose to bring these countries together, giving the impression that there is some similarity between these countries and, therefore, the tax systems that we should enter into with them?

Senator Setlakwe: Honourable senators, it was not the intention of the government to compare the regimes of these countries. The occasion arose for these treaties to be signed at the same time, and the government acted accordingly. There is no relation between the seven countries mentioned.

Senator Andreychuk: The Foreign Affairs Committee has studied previous legislation, and I hope it will have an opportunity to study this bill. While it is true that the essence of the bill is to afford both tax relief and tax liability at the same time and to bring some order to the relationships between the two countries, Bill S-2 also has a foreign policy impact and a human rights impact.

The Department of Foreign Affairs indicated to the Foreign Affairs Committee some time ago that it would be doing assessments regarding the appropriateness of Canada entering into agreements with some of these countries. Was such an assessment, from a foreign policy point of view, undertaken with these countries? Are we saying, therefore, that we believe these countries are stable enough and have a good governance scheme in place sufficient for us to feel confident that we should enter into tax arrangements with these governments?

Senator Setlakwe: Honourable senators, the government's position has always been that tax treaties and other economic relations are of a nature to improve human rights in all countries. If the end result is that relations between Canada and those countries we sign treaties with will develop the economic well-being of the countries, the position of the government is that this is something we should encourage and foster.

Senator Andreychuk: The Department of Foreign Affairs had indicated that it would be doing assessments on any country we enter into a treaty with to determine whether it is appropriate to do so from a foreign policy perspective, taking into account human rights and our relations overall. Were those studies actually undertaken?

Senator Setlakwe: I assume they have been.

Senator Andreychuk: Finally, the taxing authorities or personnel who came before our committees in the past also indicated and gave their assessments of various countries as to whether their taxation systems fit into a mould of government with which we are familiar.

• (1530)

When some businessmen see a double taxation agreement come into place, they presume that the information Canada gives to the other country will be treated in the same way as it is treated in Canada. Honourable senators, we know the information is not treated in confidence in the tax department. In certain other countries, the information is shared with police forces and with various government departments for other purposes. Canada is now undertaking to be absolutely certain that there is some minimal basis to believe that the kinds of taxation, processes and procedures that we are used to in Canada, and that have been adopted by OECD practices, et cetera, are the kinds of practices that other countries have in place for the benefit and the confidentiality of the businesses that operate in those countries.

Senator Setlakwe: Honourable senators, the government is well aware of the issues raised by the honourable senator. These issues are certainly on the minds of government members whenever they undertake these tax treaties with foreign nations.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, prior to proposing the motion to adjourn the debate in the name of Senator Lynch-Staunton, may I ask Senator Setlakwe what are some of the main differences in the agreement reached between the Government of Canada and Italy, and the agreement reached between the Government of Canada and Moldova?

Senator Setlakwe: Honourable senators, I will obtain and provide that information to the senator.

On motion of Senator Kinsella, for Senator Lynch-Staunton, debate adjourned.

[Translation]

NATIONAL ACADIAN DAY BILL

SECOND READING

Hon. Gerald J. Comeau moved the second reading of Bill S-5, respecting a National Acadian Day.—(Honourable Senator Comeau).

He said: Honourable senators, I shall be very brief, because I already gave a speech on this topic on February 19, 2002. I urge those honourable senators who may wish to do so to refer to the remarks I made at that time.

I wish, however, to emphasize a point raised by my colleagues across the way, who suggested that the name of the national Acadian day not be translated into English, but remain in the same language on both documents. I very much agree with this request. However, the Official Languages Act requires that translation be provided when a bill is introduced, and I am for upholding and complying with the Official Languages Act.

If the committee to which this bill is referred decides to reconsider this issue and have the national Acadian day referred to in French in both the French and the English versions of the act, this can be considered.

For the time being, in accordance with the provisions of the Official Languages Act, an official translation must be provided.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Comeau, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs, if and when that committee is formed.

[English]

COMMITTEE OF SELECTION

SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to the consideration of the second report of the Senate Committee of Selection, presented in the Senate earlier this day.

Hon. Bill Rompkey: Honourable senators, I move the adoption of this report.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Lowell Murray: Not before I have asked the chairman when we may expect a third report.

The Hon. the Speaker: Senator Rompkey, will you take a question?

Senator Rompkey: It depends on the question.

Senator Murray: I do not wish to prolong the debate, although I could. The committee has presented two reports. Both have met with the entire satisfaction of the chamber. However, two reports do not a full report make. A number of other committees have yet

to be established and so forth. Perhaps my friend can tell us what the meeting schedule of the Senate Committee on Selection is and whether the honourable senator would like to hazard a guess as to when we might have a final or further reports from the committee?

Senator Rompkey: Honourable senators, with regard to the last point, I cannot hazard a guess. I would say, to set the parameters, it would be a matter of days rather than weeks. However, there will be other reports. That is the good news.

We acted according to the instructions that we had on Thursday. If honourable senators recall, the instructions that we had on Thursday were that we deal with the Speaker *pro tempore* and the Standing Senate Committee on Social Affairs, Science and Technology. That was the guidance we were given. We did that today. We adjourned to the call of the Chair and, as soon as agreements have been reached, we will meet again.

The Hon. the Speaker: Is the house ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

• (1540)

QUESTION OF PRIVILEGE

Hon. Anne C. Cools: Honourable senators, I rise to speak to my Question of Privilege as per my earlier notices this day.

Before I move into the substance of my comments, I should like to take one brief moment to welcome Her Majesty Queen Elizabeth II to Canada.

Hon. Senators: Hear, hear!

Senator Cools: I welcome her. I am sure many of us feel this way. It is quite evident to me that Canadians are relishing in her visit.

Honourable senators, it shall be my intention as I speak to ask His Honour, the Speaker of the Senate, to make a prima facie finding of a breach of privilege. If he so finds and he accords this question priority, I shall, pursuant to rule 43(1), propose a remedy and begin a substantive debate on my proposed remedy. It will be very interesting, as in this particular matter before us the Senate Speaker will have an additional role other than just occupying the Chair, since he is the Queen's representative in this chamber and he himself has a duty to uphold and defend Her Majesty. Just as he is the Queen's representative in this chamber, so, too, is the Black Rod the Queen's own personal messenger.

Honourable senators, the facts are as follows. Her Majesty Queen Elizabeth II arrived in Canada on Friday, October 4, 2002, to celebrate with Canadians the 50th anniversary of her accession to the Throne, a historic achievement styled the Golden Jubilee.

That very same day, in Montreal at McGill University, Mr. John Manley, the Deputy Prime Minister and the high Minister of Finance, said, and was reported on October 5, 2002, in the *National Post*, on the front page, A1, in an article headlined "Manley calls for end of monarchy," the following:

It is not necessary, I think, for Canada to continue with the monarchy. ...personally, I would prefer it if we could have a uniquely Canadian institution after Queen Elizabeth.

It would appear that the only thing un-Canadian about that is Mr. Manley's misunderstanding of Canadians, their peculiar history and attachments.

He also said, as reported in an *Ottawa Citizen* article of Sunday, October 6, 2002, headlined "Manley's anti-monarchist views 'rude,'" the following:

I continue to think that for Canada after Queen Elizabeth it should be time to consider a different institution for us, and personally I would prefer a wholly Canadian institution.

The *Ottawa Citizen* further reported that

Mr. Manley mused that Canada's new head of state could be a "Canadian as a king or queen" and suggested it could be someone along the lines of Quebec pop diva Céline Dion.

I find it fascinating that Mr. Manley is a queenmaker.

Honourable senators, Mr. Manley's statements are odious. They are odious personally, politically and in a parliamentary way. They are offensive to Her Majesty Queen Elizabeth II. Odious and offensive statements about the sovereign have always been treated as serious and grievous matters. As a matter of fact, they have been treated as treason. I note that Minister Manley has on two previous occasions made similar statements, very publicly, one being in September 1997, around the time of the death of Diana, Princess of Wales, and the other being in May 2001, around Victoria Day. There can be no mistake about what he meant because of the repetition, and his timing also seems to be strategic. There is no evidence that has been put before us that these are misspeaks. I have objected privately in Senate caucus and other places on both of those occasions. I feel that I must break my silence today. Mr. Manley has now set new and novel situations called personal opinions, so I shall give my personal opinion as I go along as well. If it is good for the gander, it is good for the goose.

Honourable senators, the media coverage has been extensive and enormous and negative, as has been the public reaction. However, the media has treated this matter as a question of poor, impolite, uncivil, boorish and rude behaviour, dwelling on personal elements rather than on the larger constitutional elements.

Honourable senators, I shall show that not only are Minister Manley's statements unconstitutional, but also they are a constitutional corruption and constitutionally unethical.

Mr. Manley's statements are an affront to Parliament and its privileges as it is an assault on his own duty of allegiance to Her Majesty and an assault on his oath of allegiance itself. Honourable senators, our Oath of Allegiance is part of the law of this land, inserted expressly in the BNA Act. A minister's first

duty is to uphold the law, the Constitution and the Sovereign in whose name all of government is conducted. Every prosecution in the country is conducted in the name of Her Majesty. All the power of the executive is vested in Her Majesty.

The Constitution Act, the BNA Act, 1867, lays out the law of allegiance for members of Parliament. This is what it was called — the law of allegiance. Section 128 of the BNA Act reads in part as follows:

Every Member of the Senate or House of Commons of Canada shall before taking his Seat therein take and subscribe before the Governor General or some Person authorized by him...the Oath of Allegiance contained in the Fifth Schedule to this Act;

The Constitution Act itself, the same BNA Act, 1867, lays out the form of the Oath of Allegiance in the Fifth Schedule. The oath of allegiance — and we have all taken it on entering this chamber — reads in part:

I...do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen...

— and obviously the name of the current sovereign is inserted.

Honourable senators may not know this, but on the demise of a king or a queen, all members of Parliament are compelled to take a new Oath of Allegiance. That is why there is no reference to “heirs and successors” in our oath. It is part of the law of parliament and is the prerogative of these two sets of law that come together.

Honourable senators, we must remember what an oath is. An oath, after all, is a very important and solemn declaration of a set of facts made by the invocation of one’s own deity. It is very important. It is a very solemn matter.

Honourable senators, I come to the whole question of Parliament. There seems to be a significant amount of confusion these days as to what a Parliament is. Again, we can look to the Constitution. The BNA Act, 1867, section 17, states:

There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

Let us understand that those words in the BNA Act were very carefully chosen: “One Parliament.” There was a significant amount of concern at the time in Canada as to the differences between legislatures and parliaments, and the legislative assemblies and parliaments. Honourable senators will find that phrase, “one,” as in Parliament, recurring throughout the BNA Act.

What that provision of the BNA Act tells us is that Her Majesty is not only Canadian but is a member of Parliament, and not only a member of Parliament but is herself one of the three constituent parts, constituent estates, of Parliament.

[Senator Cools]

Honourable senators, an attack on or dishonour of the Queen is an attack on or dishonour of Parliament. To dishonour the Queen is to dishonour Parliament.

Honourable senators, I should like to read from the proclamation as printed in the Canada *Gazette* on February 9, 1952, announcing the death of His Majesty, King George VI, and proclaiming the accession of the then Royal Princess Elizabeth. I ask honourable senators to pay careful attention to the words in the proclamation that assert the unanimity of cabinet and Privy Council to their allegiance to Her Majesty Queen Elizabeth II. Remember, honourable senators, the word “allegiance” is taken from “liege,” which is the lord or lady person to whom one grants loyalty. There is much written on the law of allegiance.

• (1550)

Honourable senators should know that this proclamation was made by the administrator, the Chief Justice of Canada at the time. The proclamation reads, in part:

Now Know Ye that I, the said Right Honourable Thibaudeau Rinfret, Administrator of Canada as aforesaid, assisted by Her Majesty’s Privy Council for Canada, do now hereby with one voice and consent of tongue and heart publish and proclaim that the High and Mighty Princess Elizabeth Alexandra Mary is now by the death of Our late Sovereign of happy and glorious memory become our only lawful and rightful Liege Lady Elizabeth the Second by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas QUEEN, Defender of the Faith, Supreme Liege Lady in and over Canada, to whom we acknowledge all faith and constant obedience with all hearty and humble affection, beseeching God by whom all Kings and Queens do reign to bless the Royal Princess Elizabeth the Second with long and happy years to reign over us.

Honourable senators, we all know of the principle of the unanimity and solidarity of cabinet. Cabinet speaks with one voice, although this cabinet seems to have many voices. We will come to that in a moment.

I would repeat the words contained in the proclamation:

...assisted by Her Majesty’s Privy Council for Canada, do now hereby with one voice and consent of tongue and heart publish and proclaim ...

Honourable senators, it is that one voice about which I wish to speak. The business of cabinet speaking and acting with one heart and one voice is a very important matter.

I made it my business to seek out authorities on the issue of the role and responsibility of ministers to cabinet, to Her Majesty and to Parliament; in particular, the principles that guide what we call “cabinet unity.” I shall read to honourable senators what I found in order that we will understand the seriousness of the situation and that these statements are not simply trivia.

I turn to Alpheus Todd, in particular his 1892 work, *Parliamentary Government in England: Its Origin, Development, and Practical Operation* on the question of cabinet acting as one. This is what he wrote:

In parliament the ministers are bound to act as one man on all questions relating to the executive government. If one of them dissents from the rest on a question too important to admit of compromise, it is his duty to retire.

Is that not a novel thought?

On page 12 Mr. Todd wrote:

Differences of opinion will naturally and unavoidably occur between cabinet ministers, but the vote once taken, and the question decided, every member of the cabinet becomes equally responsible for the decision, and is equally bound to support and defend it. In case of irreconcilable differences with any of his colleagues, the premier may require their resignation or a dissolution of the cabinet.

I looked to the authorities. This is a serious matter. One of these authorities Alpheus Todd has informed us that, in the case of irreconcilable differences with any of his colleagues, the premier may require their resignation or a dissolution of the cabinet, so let us understand that what we are talking about here is a very serious matter because this is the kind of issue that could bring a government down. It is a very serious matter and we should be debating it.

At page 78 Todd wrote:

It is not, therefore, allowable for a cabinet minister to oppose the measures of government;... A minister who infringes any one of these rules is bound to tender his immediate resignation of office.

Honourable senators, Her Majesty is in this country at the invitation of the Prime Minister and the Government of Canada. That invitation would have been duly and properly executed and it was the duty of Minister Manley to support that invitation. It was the duty of the government, if Mr. Manley was going to make such a statement, to advise Her Majesty that something like that would happen, because Her Majesty should come to this country well informed of what to expect from Her ministers.

I should like to put one other statement from Mr. Todd on the record. He stated as follows:

In all his communications with the sovereign, the prime minister is bound to afford the most frank and explicit information in regard to measures agreed upon by the cabinet, and submitted for the royal sanction, for it is a maxim of constitutional law, that "the king is not to be deceived as to the character of the act which he performs."

I am very well aware that some people view these principles as mere poetry today, but I am not one of those people. I take these maxims and principles very seriously. Honourable senators, many years ago, I walked into this chamber and took an oath. I took it very seriously then and still take it very seriously now.

Honourable senators, I raise this matter because it is painfully manifest that statements such as these by Ministers of the Crown are a direct attack on the Prime Minister and on the Office of the Prime Minister. They have the result of undermining the Prime Minister, both at home and abroad.

It is clear that such statements rob the Prime Minister of his moral authority to lead, and that such statements consistently deprive the Prime Minister of the affection and trust of Canadians and even of his own caucus members. Such statements place the Prime Minister on perilous ground. Mr. Manley's statements are a great travesty and a terrible injury to Parliament, to the Prime Minister and to the Senate.

In addition, I am told that such statements are tainting Canada's international reputation. We do not know what the next few weeks will hold, but I think it is fitting that, when a question such as this is occupying every journalist and commentator across the nation for hours and hours, the Senate of Canada should give it some time.

Mr. Manley is not just an ordinary minister; he is not just the Deputy Prime Minister. Mr. Manley is what is called a "high minister." Mr. Manley, after all, is in control of the finances of the nation. He is, in Canada, what in England they call the Chancellor of the Exchequer. He is a very high minister and it is on such questions as those that governments look to Parliament for support and confidence.

Honourable senators, in my personal opinion, it seems to me that Mr. Manley is an honourable man. He, like us, has a title. That title is "the honourable." I sincerely think that Mr. Manley should do the honourable thing and relieve the Prime Minister of the onerous task of defending him, because it is a defence of the indefensible.

Mr. Manley's statements have been especially shabby, and such shabbiness is unworthy of Parliament and of a minister of the Crown, particularly the Deputy Prime Minister or the Minister of Finance. He has breached my privileges and those of the Senate and Parliament. By making such public statements as he has, he is calling into question my oath of allegiance, that of a Liberal senator and a government supporter. He has dishonoured my oath as he has his own and indeed as he has dishonoured all our oaths. I am called "the honourable" because of my Oath of Allegiance. This title is conferred on me because of the duty of allegiance.

• (1600)

Honourable senators, Mr. Manley has breached my privileges because he expects me, as a government supporter, to uphold him and what he has done. I cannot do that, I will not do that and I will not defend that. As a matter of fact, I condemn that.

Honourable senators, I propose to ask His Honour to rule that there is a prima facie case in respect of my question of privilege. If His Honour so rules, I am prepared to put forth the following motion:

That the Senate of Canada expresses its affection and support for Her Majesty Queen Elizabeth II and heartily welcomes her in this the year of her Golden Jubilee, and further, that the Senate of Canada respectfully urge that Mr. John Manley, the Deputy Prime Minister and Minister of Finance, should voluntarily excuse himself from accompanying Her Majesty the Queen here in Ottawa over the next few days, therein to allow another Privy Councillor to have that unique and distinguished honour of accompanying and escorting Her Majesty, the Queen of Canada, during her visit.

Honourable senators, we should understand clearly what a “privilege” is. There is much confusion over the meaning of “privilege,” which is not a “right.”

Senator LaPierre: We are not confused.

Senator Cools: Privileges are not rights; privileges are acquired. They were claimed by Parliament from the King from the Royal Prerogative. When the Queen exercises that set of laws, it is called “prerogative.” When members of Parliament acquired the many powers that we now know were a result of many bloody battles, the name “prerogative” was changed to “privileges.” Kings and Queens have the Law of Prerogative and Parliament has privileges and the law and custom of Parliament.

Honourable senators, this is a serious matter. I have received many representations from across this country. People are hurt and distressed. Mr. Manley has been quite fortunate in that we are now in a stage of our history when even the language of Parliament is so arcane and cryptic to the average person that the average person can no longer converse in the language of Parliament.

However, the fact remains that what has happened is an enormous breach of the Constitution. It is not good enough to say that it is simply a personal opinion because a cabinet minister, when speaking publicly, can have no personal opinion. Any public utterance from a minister must adhere to the principle that cabinet speaks with one voice.

The Hon. the Speaker: Honourable senators, is there further intervention on this matter of privilege?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, often the principle that would best guide one is the principle of custody of the tongue. Under the circumstances of the current visit to Canada by Her Majesty, I would prefer to comment on the issue that has been raised and the substance and the circumstances about which we have heard. I am certain that His Honour will attend to the matter of the definition of “privilege.” However, had Deputy Prime Minister Manley exercised that principle of custody of the tongue, the embarrassment that surrounds this matter would not be the subject of discussion today.

[Translation]

Hon. Laurier L. Lapierre: Honourable senators, it is not my intention today to speak about my support for the monarchy. There is no way I want my comments taken in that way.

[Senator Cools]

[English]

I am only concerned about the question of privilege and the rights and honour of Parliament. I rather like to think that the breach of my rights as an honourable member of the Senate and of Parliament is the notice of the question of privilege brought forth by the Honourable Senator Cools. If one reads it carefully, one finds that it is full of inaccuracies. It is essentially demonstrated as a plot on her part to be able to assassinate the Deputy Prime Minister and, in fact, even the Prime Minister.

Mr. Manley never said, in his remarks, that he wanted the overthrow of the monarchy in Canada. “Overthrow” is a violent word that demands a revolution. He never used such a word in any way, shape or form. We are now being asked to condemn him for words that he has not used. He did not ask that the Queen be ousted from the Constitution of Canada. He merely suggested that, in his personal view, he would prefer that Canada’s head of state be a Canadian, which is conceivable, although I agree that his comment was inappropriate.

[Translation]

However, to impugn his motives in an attempt to justify points raised in this Chamber, and badly at that, strikes me as —

[English]

— a greater breach of the privileges of the members of this house. The honourable senator has accused a member of Her Majesty’s government and a privy councillor of preaching revolution and a violent overthrow of the Constitution of Canada. This accusation is irresponsible, reprehensible and is not befitting a person who claims to be honourable from morning till night. Consequently, I suggest that there is no question of privilege in this matter. All we have is a person who is bitter about something and who wishes to attack wherever she may and find the reason wherever she may to pursue her course of action.

Senator Cools: Honourable senators, I am sorry but Senator LaPierre is out of order. This is improper.

The Hon. the Speaker: May I remind honourable senators of the provision of rule 51 of the *Rules of the Senate*: “All personal, sharp or taxing speeches are forbidden.” We should keep that rule in mind when we are discussing the matter of privilege raised by Senator Cools. I would remind honourable senators that I am interested in hearing why this is or this is not a question of privilege. I would ask honourable senators to refrain from debate and refrain from toing and froing on an issue in a manner that does not address the only question before us: Are the privileges of senators breached in the manner suggested by Senator Cools in her notice and in her speech?

Senator LaPierre: Honourable senators, I apologize for breaching the rule. However, I believe the honourable senator has not presented a prima facie case for the reasons that I have stated. In the final analysis, the statements that purport to determine a prima facie case bear no reality to what happened and to what was said.

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I merely want to clarify certain points. I do not believe that the honourable minister was speaking on behalf of the government and his colleagues in cabinet. It is clear — and this must be clearly understood — that this comment was quite simply the expression of a personal opinion. I do not see any indication that the honourable minister said he was speaking on behalf of the government.

• (1610)

[*English*]

Hon. Lowell Murray: Honourable senators, I would hope that His Honour would consider one aspect of the matter to which Senator Cools alluded, and it is this: The convention of cabinet solidarity does not exist, as some would suppose, only to spare ministers and their political parties and friends some embarrassment. It is an essential part of the system of responsible government and of parliamentary democracy. It seems to me to be offensive to the rights of parliamentarians, who are supposed to hold the government accountable, if the system of cabinet solidarity breaks down.

I am astonished that the most experienced parliamentarian in the government, namely, Mr. Chrétien himself, seems to be so sanguine about the idea that a minister can express a personal view on a constitutional issue without regard to the views of the government, whatever those views may be. In the words of the old question “Where will it all end?”, if ministers are to be free to express personal views on all matters under our Constitution, whether about the Charter, the division of powers or our symbols and institutions, then I believe it is offensive to the rights of parliamentarians who are charged with the responsibility of holding the government accountable.

Senator Cools: Honourable senators, I should like to respond briefly and to add to something that Senator Murray said. We are all limited in time, of course, but in our system of responsible government, the Queen in Council and the Queen in Parliament, there is no such thing as a minister having a personal view that is expressed in a public manner on major constitutional questions, particularly at such a sensitive moment. I think the “personal view” explanation is no explanation at all. A misspeak or thoughtlessness might have been a better explanation, but it cannot be either of those, because obviously this statement has been made on many occasions.

In closing, I should like to say, for example, that my personal opinion is that Mr. Manley should have resigned to clear the air. Then, in a few weeks’ time, Mr. Chrétien could have received him back into the cabinet. This is how responsible government usually works.

I should like to say that personal views are no justification or no excuse for what has happened because, in point of fact, in matters of state, articulated publicly, ministers have no private or personal views.

Second, I will, for the most part, ignore most of Senator LaPierre’s insulting and inflammatory remarks about me. His constant attack on me is something that is becoming increasingly boring and tedious.

I should like to say, Your Honour, that the word “oust” is very much a part of parliamentary language. It is often used, for example, as parliaments may oust a law or oust a view. That is very well known in parliamentary language, as is the term “overthrow.”

To be crystal clear, I never said anything about a violent overthrow. I think the senator’s imagination is running wild, as it tends to do. Let me tell the honourable senator that parliaments and governments overthrow ideas and laws all the time. As a matter of fact, I believe a text was written about Mr. Brian Mulroney, which is called something like *The Government That Overthrew Canada*. The words “overthrow” and “oust” are perfectly legitimate and beautiful words, and I invite the senator to use them.

Senator LaPierre: We will oust you!

The Hon. the Speaker: I wish to thank honourable senators for their input on this matter. I will take the input under consideration and report back at the earliest time that I can.

SANCTIONING OF MILITARY ACTION AGAINST IRAQ UNDER INTERNATIONAL LAW

MOTION—DEBATE ADJOURNED

Hon. Douglas Roche, pursuant to notice of October 2, 2002, moved:

That the Senate notes the crisis between the United States and Iraq, and affirms the urgent need for Canada to uphold international law under which, absent an attack or imminent threat of attack, only the United Nations Security Council has the authority to determine compliance with its resolutions and sanction military action.

He said: Honourable senators, Canada cannot escape the serious consequences of a war with Iraq. It is in Canada’s direct interest to work to stop it.

The purpose of this motion is to give strength and encouragement to the Canadian government to uphold the principles of the United Nations in the present crisis between Iraq and the United States.

On behalf of the many Canadians who have contacted me, on behalf of the over 100 distinguished Canadians who have said in their published statements that it is time to move beyond war, on behalf of the UN values that infuse Canadian foreign policy, I say to the Canadian government: Go on the offensive for peace! Stand up in the international community and provide an alternate beat to the drums of war.

This moment the world is passing through, while the United States prepares for war against Iraq, is the most dangerous since the end of the Cold War. The prosecution of all-out war against Iraq, even if the U.S. is joined by a few allies, threatens to cause chaos in the region, undermine international law and set back efforts to control the spread of weapons of mass destruction.

Let me say at the outset that I am repelled by the regime of Saddam Hussein. It has a repugnant record of human rights violations, aggression and development of weapons of mass destruction. It is this last charge that brings us to the brink of war today.

• (1620)

The international community has been crystal clear: Saddam Hussein must cooperate with UN weapons inspectors to verify that Iraq does not possess weapons of mass destruction. The UN Security Council is now wrestling with a resolution that would again mandate such inspections. As resolution could authorize military action if Iraq does not comply, great care must be taken to ensure that the resolution is fair and does not impose conditions that are impossible to fulfil, and thus invent conditions for war.

This situation is especially difficult for Canada because of our close relationship with the United States. Naturally, Canada wants to have the best of relations with the U.S., but that does not mean that our country must fall into lockstep with the U.S. administration's present drive towards warfare. U.S. policy, now being built on the illegal basis of pre-emptive attacks and suddenly replacing the policy of containment that endured for decades, is terribly wrong. The U.S. cannot take the law into its own hands. Neither does it have the moral right to bully the UN Security Council into passing a resolution that lowers the bar against legal military action. President Bush's speech last night, goading the American people and legislators to support war, is an irresponsible act of leadership. Congress certainly should not be rushing a war resolution through on the eve of an election.

This is the message being conveyed by distinguished American leaders such as former President Jimmy Carter, former Vice-President Al Gore, Senator Ted Kennedy and several other U.S. senators. It is the message contained in the statement of conscience called "Not In Our Name," signed by 4,000 leaders in many fields who wrote:

Let it not be said that people in the United States did nothing when their government declared a war without limit and instituted stark new measures of repression.

It is the message contained in numerous statements by American religious leaders, all criticizing an American pre-emptive strike against Iraq. European leaders are also protesting against pre-emptive warfare. Therefore, Canada ought not to be shy about speaking out against any U.S. contravention of international law.

The fact that Iraq has used weapons of mass destruction in the past heightens our concern and compels an international response. However, as UN Secretary General Kofi Annan reminds us, the nature of this response must both conform to international law and demonstrate consistency. It is not only Iraq that has ignored U.S. resolutions in the past, so have Israel and the U.S. The U.S. claim that Iraq is in material breach of its 1991 ceasefire obligations, thus permitting military action, is not convincing.

To save future generations from the scourge of war, the United Nations purposely raised the bar with regard to the use of force. Under article 51 of the UN Charter, there are only two circumstances in which the use of force is permissible. First, in collective or individual self-defence against an actual or imminent armed attack and second, when the UN Security Council has directed or authorized the use of force to maintain or restore international peace and security. Absent one of these conditions, the use of force is unlawful.

The basic law regarding self-defence in the present crisis between the U.S. and Iraq is straightforward. Iraq has not attacked any state, nor is there any indication that an Iraqi attack is imminent. Self-defence does not justify the use of force against Iraq by the U.S. or by any other state, and there is no basis for dramatically expanding the concept of self-defence as advocated in the Bush Administration's September 2002 national security strategy, calling for preventive strikes against states based on potential threats.

The only legal basis for a U.S. attack on Iraq would be if a UN Security Council directs or authorizes force to restore or maintain international peace and security pursuant to its responsibilities under chapter 7 of the UN charter. This was the case with resolution 678 in 1990, which authorized all necessary means to eject Iraq from Kuwait, as well as with similar resolutions regarding Korea in 1950 and more recently in Somalia, Haiti, Rwanda and Bosnia. In all these cases, the Security Council responded to actual invasion, large-scale violence or humanitarian emergency, not to potential threats. It follows, then, that there is no precedent for the UN Security Council to authorize the use of force in the present circumstances.

The fact is, since its invasion of Kuwait in 1990, Iraq has not threatened any neighbour and certainly not the U.S. The so-called "Blair dossier," in which U.K. Prime Minister Tony Blair presented an assortment of criticisms of Iraq, did not contain proof that Iraq is mounting weapons of mass destruction and planning to use them in an imminent attack. Iraq's armed forces are at barely one third of their pre-Gulf War strength. Military spending in that country is barely one third of what it was in the 1980s. The UN Special Commission on Iraq estimates that at least 95 per cent of Iraq's chemical weapons program has been destroyed. The U.S. State Department's own study, called "Patterns of Global Terrorism," could not list any serious acts of international terrorism connected to the government of Iraq.

It is said that because of the terrorist attacks of September 11, the war against terrorism must be prosecuted worldwide but, honourable senators, starting wars will not contain terrorism. In the short term, we must work through the United Nations to strengthen the international legal machinery on terrorism. There is still much work to be done to ensure that all states are party to the international treaty framework dealing with terrorism and in ensuring that states take adequate measures to implement their obligations under these treaties within their domestic jurisdictions.

[Senator Roche]

In the longer term, only the full-scale resources of the world directed towards ensuring an equitable distribution of the resources of the planet, in order that the vicious cycles of poverty in the world can be broken, will stamp out the breeding grounds of terrorism. These goals cannot be achieved by bombing, but by the painstaking work of building architectures of law and social justice. Law and social justice are sorely lacking in Afghanistan today and show once again the tragedy of war. Despite promises from the U.S. and the U.K. to help rebuild that country, Afghanistan today is starved for funds and teeters on the brink of slipping back into chaos — one more tragic result of war.

The U.S. has put nothing in its budget for 2003 for rebuilding Afghanistan, and I am sorry to say that Canada has only committed to one year of funding. In fact, reconstruction aid to Afghanistan is a fraction of that provided to East Timor, Rwanda and Bosnia, even though the Afghan government must find a way out of the cumulative effects of 20 years of war.

Honourable senators, it is said by the U.S. that there must be a regime change in Iraq. Of what value is it to expand the campaign into Iraq if it means leaving an environment behind in Afghanistan that still nurtures and supports the kind of radical movements that culminate in terrorism? For the U.S. to create the impression that it will dictate the kind of leader who is acceptable, will validate the arguments of al-Qaeda and its associated terrorist groups that the U.S. is engaged in direct regional control. As for getting rid of Iraq's alleged weapons of mass destruction, a pre-emptive war may even invite their use as Saddam Hussein finds himself backed into a corner. A cauldron may well emerge from a pre-emptive strike. As the Arab foreign ministers put it, a U.S. invasion of Iraq would "open the gates of hell."

• (1630)

War against Iraq just to satisfy the thirst for vengeance by an administration driven by zealotry would wreak havoc on the defenceless people of Iraq who have suffered enormously from economic sanctions for a decade. It will be impossible to spare the Iraqi civilian population catastrophic damage from concentrated bombing raids. The destruction of the power and transport infrastructure would be severely damaging, not least in terms of water supplies, sewage treatment, food distribution and health services.

To forestall such grave consequences and to help the U.S. respond to its own security concerns without warfare, Canada must take a courageous stand for peace. Prime Minister Chrétien and Foreign Minister Graham should be commended for the diplomatic steps they have taken so far.

However, more must be done in this hour of danger. The authority of the UN must be shored up. Canada should call for an open meeting of the Security Council so that our nation's voice, and others, can be heard. Compliance with treaties to reduce and ban weapons of mass destruction must be assured. A comprehensive solution for peace in the Middle East is vital. The people of Iraq must be treated fairly so they can get enough food, medicine and the necessities of life.

Canada, in short, must work for justice and peace in the Iraq situation. War is not the answer.

Hon. Jeremiah S. Grafstein: Would the honourable senator allow a question or two?

Senator Roche: Yes.

The Hon. the Speaker *pro tempore*: I regret to inform the honourable senator that his time has expired. Is leave requested to continue?

Senator Roche: If the honourable senator wishes to ask questions, that is fine with me.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

[*Translation*]

Hon. Fernand Robichaud (Deputy Leader of the Government): Honourable senators, I am prepared to give consent for two questions, quite simply so as to limit the debate. Perhaps, after adjournment, others can speak on another occasion.

Hon. Eymard G. Corbin: Honourable senators, I would like a clarification. Did the Deputy Leader of the Government say two questions or two senators?

Senator Robichaud: Two questions.

[*English*]

Senator Grafstein: Honourable senators, I will try to limit myself to one question. It is hard to do, but I will.

The honourable senator's argument has been directed overwhelmingly to the United States. He has failed to respond to the position taken by our staunchest colleague in the Commonwealth, Mr. Blair, and the Australian government. These two member states of the Commonwealth have staunchly supported the American position. The honourable senator has referred to them as "a few allies."

Could the honourable senator tell me whether Mr. Blair and the Prime Minister of Australia have supported America because of their thirst for vengeance?

Senator Roche: I did refer specifically to the Blair government in the dossier that the Right Honourable Tony Blair presented to the House of Commons in the United Kingdom. Following my review of that dossier, I provided my opinion that that document did not present any incontrovertible evidence or even any real evidence that Iraq is in possession of or is in the act of acquiring weapons of mass destruction following the last round of UN inspections.

Furthermore, I call to the attention of the honourable senator the words yesterday of the British Attorney General, supported by the Solicitor General, that any act of war in Iraq for the purpose of regime change would be illegal.

With respect to Australia, their position all along has been the same general position as that of the United Kingdom.

I do not believe that those two countries are acting with any sort of vengeance. However, they are acting in a manner in which they are falling into lockstep with the policies of the United States.

I have just returned from New York, having spent five days at the United Nations, where I held many interviews with representatives of various countries. I can assure the honourable senator that there is deep concern by not only the international community located at the United Nations but by increasing numbers of American citizens who are calling into question this rush to war by their own government.

Hon. Tommy Banks: Honourable senators, I admonish us all to take into account the comments of my distinguished colleague from Alberta. I expect he knows more about this issue than most of us. He has devoted a large part of his life to the interests of peace in the world. He has been assiduous and unflagging in pursuing that interest as he sees it.

I have two questions.

Senator Stollery: One!

Senator Banks: Senator Corbin was very clear.

Will the honourable senator be here tomorrow, in which case I will take adjournment of the debate and ask my questions tomorrow. Is that in order?

Senator Roche: Your Honour, my answer is yes. I plan to be here tomorrow and the next day. I would be happy to engage in debate with the honourable senator and other honourable senators.

On motion of Senator Banks, debate adjourned.

[*Translation*]

THE SENATE

ALLOTMENT OF TIME FOR TRIBUTES— MOTION—DEBATE ADJOURNED

Hon. Jean Lapointe, pursuant to notice of October 2, 2002, moved:

That rule 22 of the *Rules of the Senate* be amended by adding, after subsection (9), the following:

“Tributes

(10) At the request of the Government Leader in the Senate or the Leader of the Opposition, the time provided for the consideration of “Senators’ Statements” shall be extended by no more than fifteen minutes on any one day for the purpose of paying tribute to a Senator or to a former Senator, and by such further time as may be taken for the response under subsection (13).

Time limits

(11) The Speaker shall advise the Senate of the amount of time to be allowed for each intervention by Senators paying tribute, which shall not exceed three minutes; a Senator may speak only once.

[Senator Roche]

No leave

(12) Where a Senator seeks leave to speak after the fifteen minutes allocated for Tributes has expired, the Speaker shall not put the question.

Response

(13) After all tributes have been completed, the Senator to whom tribute is being paid may respond.

Senate Publications

(14) The tributes and response given under subsections (10) to (13) shall appear under the separate heading “Tributes” in the *Journals of the Senate* and the *Debates of the Senate*.

No bar

(15) Nothing in this rule prevents a Senator from paying tribute to another Senator or to a former Senator at any other time allowed under these rules.

Other tributes

(16) Nothing in this rule prevents an allocation of time for tributes to persons who are not Senators or former Senators.”.

He said: Honourable senators, I will be very brief. Today, I draw your attention to the thirteenth report of the Standing Committee on Rules, Procedures and the Rights of Parliament on the issue of time allotted to tributes in the Senate, which was presented in the Senate by the Honourable Jack Austin, on May 2.

• (1640)

The committee examined the issue in depth and came up with a solution that seems quite satisfactory to me. By amending rule 22 of the *Rules of the Senate*, as suggested by the committee, it goes without saying that the amount of time lost due to excessively long tributes would be greatly reduced. As a result, the Senate will be able to devote more time to debating issues that, let us be perfectly candid, are much more important to the constituents we represent.

Honourable senators, many of you stated unanimously that you supported such a change to the *Rules of the Senate*. For this reason, I ask you to support this motion.

[*English*]

The Hon. the Speaker pro tempore: Is the house ready for the question?

Hon. Herbert O. Sparrow: I have a question for the honourable senator pertaining to his motion. I assume that this matter would have to be referred to the committee for review and a report back to the house.

As well, perhaps the honourable senator could explain to me the reference to “wasted time.” When we pay tribute to people who have contributed to this country as much as some of the senators have, I cannot understand why the phrase “wasted time” would be used.

The motion mentions time limits and states:

The Speaker shall advise the Senate of the amount of time to be allowed for each intervention by Senators paying tribute, which shall not exceed three minutes...

Fifteen minutes are allowed in total. How would His Honour know how many senators wish to speak? Can he limit the time to a minute and one-half or two minutes or the three minutes mentioned in the motion? What if ten senators wish to speak for three minutes? Do we cut down the time for each speaker?

The honourable senator is asking the Senate to set a serious precedent in not allowing unanimous consent on an issue that comes before the house. We have always, in the rules, agreed that unanimous consent is allowed. The honourable senator’s motion and the committee report suggest taking away from the rights of the Senate to have unanimous consent.

We have unanimous consent provisions in our rules. There should be unanimous consent before we change rule 22. I appreciate that when the committee reported in the previous session, they used the same expression that unanimous consent would not be a factor. If we approve this motion, we are taking away the right the Senate has enjoyed ever since Confederation, and we must look at that very closely.

[*Translation*]

Senator Lapointe: Honourable senators, let me point out that I was never against unanimous consent. If the Senate gives unanimous consent that everyone speak and that it takes four and a half hours, then that is not my problem. I simply want to point out that I never suggested a time limit for anyone. This issue was referred to a committee.

I shall explain why I reacted. On two occasions, I was present for tributes that lasted more than one hour. In one of the cases, the person honoured did not want to have tributes paid to him. This person was honoured for one hour and twenty minutes. So, do not tell me that it is not a waste of time paying tribute to someone who did not want tributes. When we come to the end of the day and much more important items are put off because the time allotted for tributes was too long, I am sorry to say, honourable senators, that my opinion is the complete opposite of the honourable senator’s.

[*English*]

Senator Sparrow: The honourable senator is suggesting that it is not his decision or recommendation that unanimous consent be taken away. However, that is exactly what his motion states.

Where a Senator seeks leave to speak after the fifteen minutes allocated for Tributes has expired, the Speaker shall not put the question.

If that is not a limitation, I am not sure what it is. These are the honourable senator’s words, not mine, in the motion presented to this house.

I think the honourable senator said that he was tired of speeches, tributes that went on well over an hour and one-half, or something of that nature. If I may draw to the attention of the honourable senator, being that Senator Lapointe is a new senator and perhaps is trying to change the rules, but in the last session of Parliament only one tribute went over an hour and one-half. It was 92 minutes long. Those tributes were for Senator Molgat, who was our Speaker at the time. Many honourable senators wished to pay tribute to him and explain to the new senators and to the public of the great job that was performed by this senator for all Canadians.

Hon. Senators: Hear, hear!

Senator Sparrow: Allow me to review the time spent paying tribute to colleagues in the last session of Parliament: Squires, 18 minutes; Perrault, 60 minutes; McElman, 22 minutes; Godfrey, 20 minutes; Lavoie-Roux, 27 minutes; Cohen, 63 minutes; DeWare, 55 minutes; Simard, 46 minutes; Guay, 17 minutes; Buckwold, 15 minutes; Mercier, 57 minutes; Chaput-Rolland, 52 minutes; Finestone, 67 minutes; Macquarrie, 36 minutes; Poirier, 10 minutes; Olson, 38 minutes; MacDonald, 25 minutes; Wilson, 20 minutes; Lapointe, 14 minutes; and Tunney, 20 minutes.

After hearing that, does my honourable friend believe that those senators are not allowed or not permitted to have tributes made to them by current senators who want to bring to the attention of new senators and the public the great service that these people have given to Canadians? That is what we are cutting off.

I have been in this place a long time. I have only spoken once on a tribute in that period of time, so I am not talking about myself. There have been many valuable interventions. Those interventions have been good for all honourable senators to realize what a senator can do, and particularly for new senators. It should be very valuable to them to know what senators do in this chamber and do for their country. It is important that this message be made.

If I do not wish to listen to a tribute, honourable senators, I can leave the chamber. In the period of time that I have been here, tributes have never interfered with government business. The government business has always taken place and has always been handled effectively. Senators who do not wish to partake in those tributes are entitled to leave.

• (1650)

I wish to point out that the honourable senator was not here a number of times when those tributes were made since he was appointed to this chamber —

Hon. Bill Rompkey: On a point of order, in this chamber we do not normally refer to the presence or otherwise of individual senators. I would ask the honourable senator to bear that in mind. He should withdraw those remarks from the record.

The Hon. the Speaker *pro tempore*: Your point is well taken.

Senator Sparrow: I shall not refer to attendance again. I explained that there are many times when a senator is not here for tributes. We are not here all the time. Perhaps the honourable senator could answer those four questions I just asked.

[*Translation*]

Senator Lapointe: Honourable senators, I do not believe I have the same knowledge the honourable senator has of the Senate. I congratulate him on his research. He has turned up with some very precise figures in hand, and they are no doubt more accurate than mine. I have simply attempted to introduce a principle in the Senate. Far be it from me not to want to pay tribute to senators who have accomplished great things for the country. On the contrary. I greatly admire them. Is it necessary, however, to take 45 minutes or an hour to say what could have been said in three minutes?

Today, tributes were paid to Senator Giguère. Two senators spoke, and that was very good. It did not go on and on, and yet during their speeches, there were two references to figures, for example his date of birth.

I have no objection to paying tribute to those who have made a contribution to this country, which is as much mine as yours. I do, however, have a different view of the time allotted to more important matters, or ones I feel are more important. No one is required to endorse my views, and that is the wonder of democracy. I have tried to make a contribution. Despite what you tell me, a considerable amount of time is still being wasted here. I do not want to make a big thing about it, but even if a great deal is being accomplished here, a great deal of time is being wasted as well. If I have not answered honourable senator's questions, he may always contact me in writing.

On motion of Senator Sparrow, debate adjourned.

[*English*]

THE SENATE

OFFICIAL LANGUAGES COMMITTEE—
CHANGE TO RULE 86—MOTION—
DEBATE ADJOURNED

Hon. Jean-Robert Gauthier, pursuant to notice of October 2, 2002, moved:

That rule 86 of the *Rules of the Senate* be amended:

by replacing paragraph (1)(e) with the following:

“Official Languages

(e) The Standing Committee on Official Languages, composed of nine members, four of whom shall constitute a quorum, to which may be referred, as the Senate may decide, bills, messages, petitions, inquiries, papers and other matters relating to official languages generally.”; and

That a Message be sent to the House of Commons to acquaint that House that the Senate will no longer

participate in the Standing Joint Committee on Official Languages.

He said: Honourable senators, I should like to address a subject that has been of great concern to me for several years. It has been two years now since we have had a motion proposing the same type of objective that we have here before us.

The proposal was debated many times in the Senate. The matter was debated also in committee when it was deferred, in February 2001, I believe — more than a year ago — to the Standing Committee on Rules, Procedures and the Rights of Parliament, which, I must admit, took the subject matter very seriously.

That committee met 19 times on this issue and heard 35 witnesses. They worked hard. I thank them for that. The committee, chaired by Senator Jack Austin, debated the matter thoroughly. The motion was adopted by the committee in May 2002. The chairperson, it was our understanding, was to report to the Senate. However, the summer adjournment intervened and, as all honourable senators are aware, the Houses of Parliament were prorogued, and we had to start all over again.

[*Translation*]

Honourable senators, this motion falls within the Senate's responsibilities as defined by the Constitution of Canada. The Senate was created to give legislation a second look, to represent the regions, and to protect the rights of minorities.

This motion proposes the creation of a committee that would be responsible for considering all issues relating to our two official languages. If made, this decision will be a historic decision, because the Senate has never had its own official languages committee. Yet this is one of the reasons for having a Senate.

When the Official Languages Act was passed by Parliament in 1969, a committee of the House of Commons oversaw the implementation of this policy. I know this because I have been a member of this committee since 1972. The committee would meet from time to time with the Commissioner of Official Languages to discuss his estimates or his annual report.

It is true that the official languages issue was disturbing for some people. In the 1970s, it was a sensitive and controversial subject. Here in the nation's capital, it was not easy. There were “pros” and “antis,” but very few people were indifferent. Radio open line shows were very busy, and editorial writers — particularly in the majority language — took aim at the objectives of making the Public Service of Canada an organization where one could work in French and serve the public in both official languages of the country and where there was fair representation of the two communities, the French-speaking community and the English-speaking community. These objectives appeared totally fair to me.

I must admit that, since the spring of 2001, the Standing Joint Committee on Official Languages has been a livelier place. Its members have been showing up more regularly. They have been working hard on matters before them. I want to thank the co-chairs and hail the work accomplished by Senator Shirley

Maheu. I also want to pay tribute to the contribution and leadership of co-chair Mauril Bélanger, and my Liberal colleagues from both Houses, who regularly came to question witnesses. I would be remiss if I did not mention opposition MPs Benoît Sauvageau and Yvon Godin, who did serious work. Their questions were pointed at times, but work was being done.

• (1700)

I have greatly appreciated their faithful attendance, their grasp of the issues and, above all, their friendship.

It is not easy to chair a Joint Committee on Official Languages when there are no rules. There are no specific rules governing the procedures that joint committees should follow. This issue has already been debated on a number of occasions, including during the proceedings of a committee consisting of Senator Grimard, myself, Mr. Milliken and Ms. Catterall. We met several times to try to reach an agreement, but there was no follow-up. I was absent for a few months and even a few years for health reasons.

A joint committee primarily reviews regulations. It is more interested in the “how,” rather than in the “why” of issues. A joint committee cannot consider bills. This is where we do not agree.

This was evidenced last year when I introduced Bill S-32, to amend the Official Languages Act (fostering of English and French). This bill was given second reading in the Senate.

Senator Corbin asked me, after the report was adopted at second reading, if I intended to refer the bill to the Standing Joint Committee on Official Languages. I said no, because that would not be efficient. I could not understand why the House of Commons would let the Senate give second reading to a bill, to do away with a committee, without having had the same opportunity. The two Houses have equal powers and their procedures are similar: three readings to pass a bill. I cannot understand why a bill would be referred to a joint committee. The other place would object to this, and rightly so.

Bill S-32 was referred to the Standing Senate Committee on Legal and Constitutional Affairs, which met eight times and heard 35 witnesses. Again, I was unlucky, because the session was prorogued and the bill died on the Order Paper. Some good work had been done, but the House of Commons had yet to be involved in the process. Some senators asked experts and people interested in the issue to appear before the committee. I thank them.

This motion has been around for quite some time. If it were adopted, it would allow for committees of both Houses to be restructured. I can assure honourable senators that there is nothing in this motion that would prevent the House of Commons from establishing its own official languages committee. The two standing committees could meet together from time to time to hear from people who could contribute to the advancement of official languages.

The Official Languages Act was amended in 1988 under the Mulroney government. The Commissioner of Official Languages, Ms. Dyane Adam, tabled an annual report that ought to be given careful consideration by a Senate committee. This issue deals with the English-language minority in Quebec and the French-language minorities outside Quebec.

The motion is quite important and it is urgent that we consider it because we are in the process of restructuring our committees. The Committee of Selection will be looking into the question. It would be good if its mandate included selecting or recommending the members of this committee.

We must make an informed and wise decision to strike a Standing Senate Committee on Official Languages. I remind senators that regional and linguistic interests are one of the basic responsibilities of the Senate, and we must act swiftly.

In closing, I am convinced that the institutional memory of each senator and the interest that we will have in this issue will help the work of the committee benefit all of Canada. I believe that we have the support of all Canadians.

[English]

Hon. Tommy Banks: Would the Honourable Senator Gauthier entertain a question?

Senator Gauthier: Yes, of course.

Senator Banks: As I understand it, the joint committee has the job of ensuring that the provisions of the Official Languages Act are applied well, prudently and judiciously across the country. I believe that is at least part of that joint committee's mandate. If not, I would ask to be corrected. If it is, in considering the existence of two committees, one in each house, would Senator Gauthier tell us what his view is as to which committee would have its opinion given the most and best weight, should they disagree, for example, on a question of an application of the Official Languages Act?

Senator Gauthier: Honourable senators, there are two sides to that question. To the first one I would say that there are committees in both Houses that are similar in their interests: agriculture, defence and foreign affairs. However, it is not duplication. We in this house have a different approach to subject matters. In relation to official languages, we are not there to interpret the law. We have an official Commissioner of Official Languages who acts as an ombudsman. I could give you a long speech as to why I think she should be the language auditor of Canada but I will not do that. The fact is: she is not. She is the ombudsman. I should like her to have the same powers as the Auditor General. She does not. She cannot go to court unless she has received a complaint. I believe we could improve that in future years.

Basically, the work done by the Senate is different from the work done by the House of Commons, and that is understandable. Honourable senators, we are not as partisan as members of the House of Commons. We have no problems with the Official Languages Act. The opposition here supports its objectives. In the House of Commons the Alliance Party has said publicly many times that they would hand over that jurisdiction

to the provinces; they would want the federal government to step out of official languages. Truthfully, that would be a disastrous situation for minority language rights. Anglophones in Quebec would not like it, and francophones outside Quebec would not like it either.

There is the possibility this committee operating under a different type of procedure, as we did in the old days. It would be forward-looking, it would be good for the issues, and it would be very much part of our mandate as senators to look after minority rights.

The Hon. the Speaker: Honourable senators, I must advise that Senator Gauthier's 15 minutes have expired.

• (1710)

[Translation]

Hon. Gerald J. Comeau: Honourable senators, it is tradition in the Senate that the two sides alternate. I would therefore ask for debate to be adjourned.

On motion of Senator Comeau, debate adjourned.

[English]

AMERICA DAY IN CANADA

MOTION—DEBATE ADJOURNED

Hon. Jeremiah S. Grafstein, pursuant to notice of October 2, 2002, moved:

That the Senate urge the Government of Canada to establish September 11 of this and every year hereafter as a commemorative day throughout Canada to be known as "America Day in Canada."

He said: Honourable senators, I rise to speak in support of a resolution to declare September 11 "America Day in Canada."

Some years ago I spoke in the Senate about Canada's fascinating symbiotic relationship with the United States following a meeting that I co-chaired in Nantucket where the twenty-ninth annual meeting of the Canada-U.S. Interparliamentary Group was hosted by our American Congressional colleagues.

I remind the Senate that about 125 years ago an energetic young man called Theodore Roosevelt, freshly graduated from Harvard University, published the first of his many books, a closely documented naval history of the War of 1812. Roosevelt's ideas blossomed into his later strategic views about expanding the reach of the Monroe doctrine, first proclaimed in 1823. That doctrine was a direct outgrowth of the War of 1812. Roosevelt believed that the Monroe doctrine, to make America secure for democracy, should expand beyond the American continent north and south, as far west as the Philippines in the Pacific, and beyond Cuba in the Caribbean, via robust naval power.

After being appointed Assistant Secretary of Navy in 1897, in his first speech at the Naval Academy Roosevelt criticized Thomas Jefferson's war strategy in 1812. The great Jefferson had sought to protect the American coastline with small defensive craft rather than a fleet of aggressive battleships that could roam

the seas of the world, which, in Roosevelt's view, might have prevented the War of 1812.

His belief in robust naval power to extend the security boundaries of the Monroe doctrine beyond the Americas had a profound effect on the United States in the 20th century and reverberates strongly in American strategic doctrine today. We heard echoes of the Monroe doctrine in President Bush's speech just last evening.

Turning to Canada, honourable senators, just a few feet away from the Senate lies the Rideau Canal which connects Ottawa to the lower St. Lawrence River which, in turn, is connected to Lake Ontario, all via Canadian inland waterways. The Rideau Canal was finished in 1832 and, of course, was much later improved, but in its first stage it was completed as a strategic aftermath of our last war with the United States, that same War of 1812.

Honourable senators will recall that, during the War of 1812, government buildings were burnt, first in York, then the capital of Upper Canada — now Toronto, my home — by Americans. Washington government buildings were burnt in retaliation. These actions led to a peace settlement in the Treaty of Ghent of 1814 which marked, for the last time, Canada and America taking up arms against each other and exchanging fire.

Back to the Rideau Canal: This inland waterway was engineered to allow our naval and military forces to enter and reinforce our inland waters, especially Lake Ontario, avoiding the border river of lower St. Lawrence from Cape St. Vincent to Cornwall.

Honourable senators, we are reminded by former Senator Moynihan of New York in his slim but indispensable volume, *On the Law of Nations*, that the Rideau Canal effectively put an end to the prospect of war between Canada and the United States. Moynihan goes on to write: "...yet, this would not be convincing." The fact is that the people along the St. Lawrence changed their minds. Yes, both Canada and the United States changed their minds and lowered their weapons, while the United States abandoned its northward ambitions, the result being the evolution of the longest undefended border in modern history. From rivals west and north, Canada and the United States became fast friends, partners and staunch allies.

September 11, 2001 changed forever America's strategic outlook. For the first time since 1812, America was attacked in its heartland, in its largest metropolis and its capital. Homeland security, encompassing all of North America, has now become a paramount pillar of U.S. policy. Meanwhile, Canada and the United States continue to be each other's largest trading partner. Since the FTA and NAFTA, our trade has increased to close to \$450 billion annually. Over \$1 billion dollars in trade crosses our borders daily. Millions of our people cross the border yearly. Last year, it was estimated that there were over 150 million trips across the border. As we speak, the open border is now being transformed into a smart, secure border to improve both efficiency and security.

[Senator Gauthier]

Both Canada and America believe in providing a haven for those seeking freedom and security from around the world. Both our societies have undergone profound change due to massive immigration. The streets of Canada and the streets of America reflect this new reality.

Canadians and Americans share most values and bear most similarities. We are both devout believers in democracy. We both believe in the rule of law in practice and within our domestic institutions. Our constitutions put people before government. We believe in reducing barriers to international trade. We both believe in promoting democracy, equality and freedom at home and abroad.

Yet there are differences from our more populous, more robust neighbour to the south. Fear of being overwhelmed has fuelled Canada's belief that our culture is inseparable from our national psyche and our national identity. America uses its culture as just another invaluable commercial product. Canadians have held the belief that bilateral trade and constructive engagement can foster democratic values in places like China. You will recall that Canada recognized Red China just before the United States for precisely this purpose.

Canadians are physically more wired to each other. Canadians from every region share a very strong consensus on most issues. The Charter has emerged as the most respected icon of Canadian civic society. We have become a rights-drenched society.

We make more per capita telephone calls each year. We publish more poetry per capita. We watch more television. Cable television's penetration in Canada is much higher than in the United States. Our bilingual society is at work through the English and French television and radio that reaches virtually all of our population from coast to coast.

Our educational systems differ in that we deploy public funds for public, secular and non-secular education.

While Americans believe that bearing arms is a right, Canadians believe that it is a privilege and should be regulated.

We believe that health is a national priority, to protect individuals from fear of disability. Hence, we celebrate a universal and accessible medicare system for all Canadians.

Americans believe in strong military to provide security at home and abroad. We Canadians benefit, as our ambassador to the United States, Michael Kergin, said last week in Toronto, from America's security blanket.

While I said we differ at times with Americans, no one can deny America's singular and unique leadership in the world when it comes to pressing and promoting democracy and trade in every corner of the globe. From Theodore Roosevelt to Wilson, from Franklin Roosevelt to Truman, from Reagan to Bush, America believes that it has a singular mission to expand democracy and freedom across the globe. Sadly, the 21st century promises more unpredictable turbulence than we could have ever imagined.

• (1720)

After 1989, when the Berlin Wall came down, due in large measure to America's steadfast and patient leadership, all believed that the world would change for the better; that the world would be a newer, better place; that there would be a new world order. We were all wrong. September 11 shattered conventional wisdom with respect to our peace and security both at home and abroad. Twenty-four Canadian citizens joined people from every faith and every region of the world as victims in that heinous onslaught on our common values and citizenry, as the Prime Minister reminded us. Yet the American spirit as re-emerged more purposely and powerfully to protect and safeguard our shared values. We stood together in World War I, World War II, the Korean War, the Gulf War and peace missions around the globe, and we will stand together to defend freedom and liberty, each, as we have heard today, in our own way.

America now celebrates September 11 as Patriots Day in America, so I think it is right and proper that we commemorate September 11 in Canada as America Day in Canada, a day that changed America, changed Canada and changed the world, perhaps forever.

Canada remains America's staunchest friend and ally. Canadians by the millions, for generations, have developed unbreakable bonds of family and friendship in every corner of America. I urge honourable senators to support this very modest resolution that will give us time each year, on the unforgettable September 11, for reflection and celebration of our exuberant and irreplaceable neighbour to the south.

I saw the Canadian spirit and steadfastness for America reflected last December 1 when well over 20,000 Canadians — I estimated between 22,000 and 26,000 — came from every corner of Canada, at their own expense, and descended on New York to help bring things back to normal, answering Mayor Giuliani's eloquent call at the United Nations. We witnessed, in Canada, the spontaneous outpouring of hospitality offered by Canadians to Americans stranded in Canada on September 11.

We pray for a time when the world will once again become a safer, securer place for our children and us. That should be our prayer when we commemorate and celebrate each and every September 11 as America Day in Canada.

I urge the Senate to adopt this resolution.

On motion of Senator Kinsella, for Senator Buchanan, debate adjourned.

NATIONAL DEFENCE

AFGHANISTAN—MOTION TO RECEIVE FORMER COMMANDING OFFICER IN COMMITTEE OF THE WHOLE—DEBATE ADJOURNED

Hon. Tommy Banks, for Senator Kenny, pursuant to notice of October 3, 2002, moved:

That the Senate do resolve itself into a Committee of the Whole on Tuesday, October 29, 2002, in order to receive Lieutenant-Colonel Pat Stogran, former Commanding Officer, 3 Princess Patricia Canadian Light Infantry Battle

Group, Canadian Forces Battle Group in Afghanistan, February to July 2002, for the purpose of discussing the preparation and training prior to deployment as well as the experiences of the Canadian Forces in Afghanistan in the war on terrorism.

That television cameras be authorized in the Chamber to broadcast the proceedings of the Committee of the Whole, with the least possible disruption of the proceedings.

He said: Honourable senators, there are many things that grasp the attention of Canadians these days, and we all know what they are. One of them is certainly the state of our defence capabilities: the alacrity with which we may respond when we are called upon to do so, the extent to which we may respond when we are called upon to do so and, as we have sometimes heard, the difficulties which our forces have sometimes faced when they have been called upon to do so.

Colonel Pat Stogran's name may not be well known to honourable senators, but he is an officer with a very distinguished and recent record of active service. He was the commander of the Canadian Forces on the ground in Afghanistan. He was their commander when they were identified as the soldiers who would be sent to be on the ground in Afghanistan; he was in charge of their preparation, their training, their deployment and actually getting them there; and he commanded them on the ground when they were in Afghanistan, where they acquitted themselves so well. Colonel Stogran also commanded the battle group as it left Afghanistan and returned to Canada. Therefore, he knows to a degree that others do not — first hand and at the highest level of direct command authority — exactly what happened when a Canadian contingent of soldiers was sent to fight on the ground in a theatre of war.

We are hearing in the Senate and in the Standing Senate Committee on National Security and Defence, and we are reading in the newspapers, varying reports about the readiness and the capacities of the Canadian Armed Forces to do things in the world. I agree with Senator Kenny, and therefore support this motion, that it would be a very good idea for not only the committee but for all of us to hear in Committee of the Whole directly from that officer what his experiences were and what his recommendations and observations would be with respect to our state of military preparedness, capability and action on the ground. It would be beneficial to hear from him about our capacity to get where we need to go and what happens when we get there with respect to equipment and training, which we know is excellent because this contingent was regarded by most as the best people on the ground there. We need to hear about those things and to be able to ask questions about them directly to a Canadian officer who was in command of forces in action this year.

I therefore avidly commend the attention of senators to this motion, which I hope will be adopted.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I wish to thank the honourable senator for that explanation. The motion

is very timely. In terms of the work schedule of the Senate, it would fit in very well because our committees are still in the process of being formed. Therefore, we support the motion, not only in terms of the timeline but also in terms of the substance and arguments that have been advanced.

On motion of Senator Robichaud, debate adjourned.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO CONTINUE STUDY ON STATE OF HEALTH CARE SYSTEM

Hon. Michael Kirby, pursuant to notice of October 3, 2002, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report upon the state of the health care system in Canada. In particular, the Committee shall be authorized to examine:

- (a) The fundamental principles on which Canada's publicly funded health care system is based;
- (b) The historical development of Canada's health care system;
- (c) Health care systems in foreign jurisdictions;
- (d) The pressures on and constraints of Canada's health care system; and
- (e) The role of the federal government in Canada's health care system;

That the papers and evidence received and taken on the subject and the work accomplished during the Second Session of the Thirty-sixth Parliament and the First Session of the Thirty-seventh Parliament be referred to the Committee;

That the Committee submit its final report no later than October 31, 2002;

That the committee retain the powers necessary to publicize its findings for distribution of the study contained in its final report for 60 days after the tabling of that report; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

Motion agreed to.

The Senate adjourned until Wednesday, October 9, 2002, at 1:30 p.m.

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